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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

MIKE MADANI, ERIC WALLEY, RICHARD
DEVICO, ROMSIN OUSHANA, JOHN
CHESS, and MICHAEL WARCHUT, on
behalf of themselves and all others similarly
situated,

Plaintiffs,

v.

VOLKSWAGEN GROUP OF AMERICA,
INC.,

Defendant.

Case No.: 4:17-cv-07287-HSG

**SECOND AMENDED CLASS ACTION
COMPLAINT**

DEMAND FOR JURY TRIAL

SECOND AMENDED CLASS ACTION COMPLAINT

1. Plaintiffs¹ Mike Madani, Eric Walley, Richard DeVico, Romsin Oushana, John Chess, and Michael Warchut (“Plaintiffs”), individually and on behalf of all others similarly situated, by and through the undersigned counsel, hereby set forth their claims against Defendant Volkswagen Group of America, Inc. (“Defendant” or “Audi”) in this class action complaint. Plaintiffs allege the following based upon personal knowledge as to their own acts, and based upon the investigation conducted by their counsel, as to all other allegations:

NATURE OF THE CASE

2. This proposed class action is brought by Plaintiffs who allege that defective direct-shift gearbox (“DSG”) transmissions also referred to as “S-tronic transmissions” are installed in the following vehicles models and model years: 2010-2015 Audi S4; 2010-2015 Audi S5; 2010-2015 Audi S6; 2010-2015 Audi S7; 2010-2015 Audi RS5 (the “Class Vehicles”) sold or leased to consumers, including Plaintiffs, throughout the United States.

3. The Class Vehicles were sold or leased pursuant to express and implied warranties. Every class vehicle is backed by a 48-month/50,000-mile express New Vehicle Basic Limited Warranty (“Limited Warranty”). This warranty expressly covers any repairs needed to correct defects in materials or workmanship, and specifically applies to the engine, transmission (including the DSG) and transaxle, drivetrain, front-wheel-drive system, and rear-wheel drive system. This warranty expressly applies to all original purchasers and lessees throughout the United States. These warranties also transfer to subsequent purchasers. The express warranties assured consumers that Audi would repair or replace any part that is defective in materials or workmanship under normal use and the Class Vehicles were properly equipped for the use for which they were intended. At the time each class vehicle was sold or leased, Audi breached its express and implied warranties because each class vehicle was equipped with a dangerous and defective transmission.

¹ The Complaint, Doc. 1, included Plaintiffs Brian Gillard and Shant Bakalian. Plaintiff Brian Gillard was voluntarily dismissed in March 2018. *See* Doc. 12. Plaintiff Shant Bakalian, likewise, was voluntarily dismissed in April 2018. *See* Doc. 49.

1 4. The transmissions in all of the Class Vehicles are defective. The transmissions cause
2 sudden, rough, unexpected shaking, and violent jerking (commonly referred to as “juddering” or
3 “shuddering”) when drivers attempt to accelerate Class Vehicles and shift into 2nd, 3rd, or 4th gear and
4 attempt to decelerate. Further, Class Vehicles exhibit clunky downshifting and inhibited gear shifting.
5 For example, the transmissions hesitate before responding to a driver’s input on the accelerator pedal,
6 which prevents Class Vehicles from accelerating as intended by the driver, especially when accelerating
7 from a complete stop. The Class Vehicles power surges while driving. The transmissions cause a hard
8 downshift or clunk when drivers either slow down or accelerate at low speed (herein referred to as the
9 “transmission defect”). This defect creates unreasonably dangerous situations while driving and increases
10 the risk of an accident, as the driver is unable to accelerate the vehicle when needed, or as expected by
11 the Class Vehicle driver and other drivers on the road. Often, the defect leaves the driver helpless and
12 unable to sufficiently accelerate in order to keep up with traffic.

13 5. The shuddering, juddering, hesitation of acceleration, surge, and hard clunk described
14 above are all manifestations of the transmission defect in the Class Vehicles.

15 6. Audi sold, leased, and continues to sell and lease the Class Vehicles despite knowing of
16 the transmission defect that poses a danger to Class Vehicle drivers and the public.

17 7. Audi has chosen financial gain at the expense of the safety of drivers and the public by
18 failing to disclose its knowledge of this critical safety defect to consumers.

19 8. Audi knew or should have known about the safety hazard posed by the transmission defect
20 before the sale of the first Class Vehicles from various sources, including but not limited to: pre-market
21 testing, warranty claims, NHTSA, internal complaints, and other sources. These sources of information
22 and knowledge underlie Audi’s Technical Service Bulletins (“TSBs”) acknowledging problems with the
23 transmissions of Class Vehicles. Audi should not have sold, leased, or marketed the Class Vehicles
24 without a full and complete disclosure of the Class Vehicles’ transmission defect, and should have
25 voluntarily recalled the Class Vehicles as soon as Audi knew the extent and pervasiveness of the defect.

26 9. Plaintiffs bring this action on behalf of themselves and all others similarly situated
27 (“Class,” “Subclass,” “Class Members,” or “Subclass Members”) for Audi’s breach of express and
28 implied warranties as well as violation of the Magnuson-Moss Warranty Act, California Legal Remedies

1 Act (“CLRA”), Song-Beverly Consumer Warranty Act, California’s Unfair Competition Law, and unjust
2 enrichment seeking damages, injunctive and declaratory relief, restitution, disgorgement of profits,
3 attorneys’ fees and costs, and the repair or replacement of Class Vehicles or refund of money paid to own
4 or lease all Class Vehicles in the United States.

5 6 **JURISDICTION AND VENUE**

7 10. The United States District Court for the Northern District of California has subject matter
8 jurisdiction over this action pursuant to the Class Action Fairness Act because there is minimal diversity,
9 the proposed Class and Subclass each exceeds one hundred members, and the matter in controversy
10 exceeds the sum or value of \$5,000,000 exclusive of interests and costs. 28 U.S.C. § 1332(d)(2)(A).

11 11. The United States District Court for the Northern District of California can exercise
12 personal jurisdiction over Audi because Audi’s actions summarized in this complaint occurred in this
13 District subjecting Audi to specific jurisdiction in this District.

14 12. The United States District Court for the Northern District of California can exercise
15 supplemental jurisdiction over Plaintiffs’ state-law claims pursuant to 28 U.S.C. § 1367.

16 13. Venue is proper in this District pursuant to 28 U.S.C. § 1391(a)-(c). Audi does substantial
17 business in the State of California and within this Judicial District, is registered to and is doing business
18 within the State of California, and otherwise maintains requisite minimum contacts with the State of
19 California. Audi distributes Class Vehicles in this District and receives substantial compensation and
20 profits from the sale and lease of Class Vehicles in this District. Additionally, more than one of the
21 Plaintiffs are domiciled in this District, purchased a Class Vehicle in this District, and had their vehicle
22 serviced in this District.

23 **PARTIES**

24 14. Plaintiff Mike Madani, a proposed Class and Subclass representative, is an adult citizen
25 of California who resides in Rolling Hills Estates (Los Angeles County).

26 15. Plaintiff Eric Walley, a proposed Class and Subclass representative, is an adult citizen of
27 California who resides in Walnut Creek (Contra Costa County).
28

1 16. Plaintiff Richard DeVico, a proposed Class and Subclass representative, is an adult citizen
2 of California who resides in San Diego (San Diego County).

3 17. Plaintiff Romsin Oushana, a proposed Class and Subclass representative, is an adult
4 citizen of California who resides in San Jose (Santa Clara County).

5 18. Plaintiff John Chess, a proposed Class and Subclass representative, is an adult citizen of
6 California who resides in Pleasanton (Alameda County).

7 19. Plaintiff Michael Warchut, a proposed Class and Subclass representative, is an adult
8 citizen of California who resides in Fairfield (Solano County).

9 20. Defendant Volkswagen Group of America, Inc. is a corporation organized and in
10 existence under the laws of the State of New Jersey. At all times relevant herein, Volkswagen Group of
11 America, Inc. was engaged in the business of designing, manufacturing, constructing, assembling,
12 marketing, distributing, and selling automobiles and other motor vehicles and motor vehicle components
13 in California and throughout the United States of America.

14 15 **GENERAL ALLEGATIONS**

16 **Audi Knowingly Sold Dangerously Defective Vehicles to Consumers.**

17 21. In August 2009, prior to the sale of any of the Class Vehicles in this case, Audi issued a
18 voluntary recall for the Audi A3, TT Coupe, TT Roadster, in addition to VW Eos, Jetta Sedan, and Jetta
19 Sportwagen, due to DSG transmission failures that caused the vehicles to lose power and go into “limp
20 mode” while being driven.²

21 22. The DSG transmissions that were the center of the recall within the vehicles is the same
22 type of DSG transmission within the Class Vehicles.

23 23. Since 2009, Audi has been aware of safety issues and defects surrounding the DSG
24 transmissions.

25
26
27
28

² See <https://www.carscoops.com/2009/08/vw-and-audi-models-recalled-over-two>.

24. Yet, Audi only decided to recall the 2009-2010 Audi A3, TT, and TT Roadster, rather than all of the models in its product line that had the DSG transmissions (*e.g.*, 2009 S4, S5, S6, and S7 models).

25. As part of the recall, Audi extended the warranties for the 2009-2010 Audi A3, TT, and TT Roadster to 10 years/100k and reimbursed those who had already incurred out of pocket expenses from repair to their defective DSG/S-tronic transmissions.

26. Per NHSTA, the investigation into this recall started in July 17, 2009 and lasted until November 19, 2009, prior to a sale of any Class Vehicle in this case.

27. NHSTA's investigation states in part:

THE SUBJECT VEHICLES ARE EQUIPPED WITH DIRECT SHIFT GEARBOX (DSG) TRANSMISSIONS, WHICH FEATURE A 6-SPEED AUTOMATIC GEARBOX WITH TWO WET RUNNING CLUTCHES (DUAL CLUTCH) IN WHICH THE CLUTCH MECHANISM AND GEAR CHANGES ARE ELECTROHYDRAULICALLY OPERATED BY A MECHATRONIC CONTROL UNIT. THE DSG MECHATRONIC CONTROLLER INCLUDES EXTENSIVE SELF DIAGNOSTIC FUNCTIONS AND STRATEGIES TO ENSURE SAFE OPERATION AND PREVENT SYSTEM/COMPONENT DAMAGE IN THE EVENT OF COMPONENT FAILURES OR HARSH OPERATING CONDITIONS. THE BASIC HIERARCHY OF FAULT MODES INCLUDES SOME THAT ONLY RESULT IN THE STORAGE OF A DIAGNOSTIC TROUBLE CODE (DTC) AND CAUSE NO LOSS OF FUNCTION, SOME THAT STORE A DTC AND REDUCE VEHICLE OPERATION TO A LIMP HOME MODE, AND SOME THAT STORE A DTC AND CAUSE AN INTERRUPTION OF MOTIVE POWER (I.E., OPEN CLUTCH). THE DRIVER IS ALERTED TO THE LATTER TWO MODES BY THE DASH GEAR POSITION INDICATOR (PRNDS) FLASHING.

ODI ALSO IDENTIFIED COMPLAINTS OF HARSH/JERKY SHIFTING IN SOME VOLKSWAGEN VEHICLES WITH DSG. VOLKSWAGEN ATTRIBUTED THIS CONDITION, WHICH TYPICALLY OCCURS AT VERY LOW SPEEDS, TO EXCESSIVE WEAR IN THE BUSHINGS OF THE TWO SOLENOID VALVES IN THE MECHATRONIC UNIT THAT CONTROL CLUTCH OPERATION. VOLKSWAGEN DOES NOT BELIEVE THAT THE THIS CONDITION IS A SAFETY DEFECT BECAUSE THE CHANGES IN SHIFT QUALITY DEVELOP GRADUALLY OVER TIME, DO NOT CAUSE A LOSS OF MOTIVE POWER AND HAVE NOT RESULTED IN ANY FATALITIES, INJURIES OR SERIOUS CRASHES (THERE WERE THREE REPORTED PROPERTY DAMAGE INCIDENTS RESULTING IN MINOR BODY DAMAGE IN VERY LOW SPEED, PARKING MANEUVERS). VOLKSWAGEN ADDRESSED THIS PROBLEM IN THE FIELD WITH A CUSTOMER SERVICE PROGRAM THAT INCLUDES THE REPLACEMENT OF POTENTIALLY AFFECTED MECHATRONIC UNITS AS WELL AS A 10 YEAR/100,000 MILE EXTENDED WARRANTY.

THIS INVESTIGATION IS CLOSED WITH VOLKSWAGEN'S RECALL OF THE DEFECT CONDITION THAT MAY RESULT IN A LOSS OF MOTIVE POWER WHILE DRIVING.³

28. Accordingly, as of the 2009 NHSTA investigation conducted on the A3 models, Audi was aware the S-tronic or DSG Gearbox transmissions had the ability to go “limp” and “reduce[] vehicle operation.”⁴

29. The NHSTA’s investigation further revealed that the DSG transmissions have “harsh/jerky shifting in some Volkswagen Vehicles with DSG.”⁵

30. At least as of the November 2009 conclusion of the NHSTA’s investigation, Audi had knowledge that (1) their DSG Transmissions were defective; (2) such defect was present in the DSG of other models sold or intended to be sold; (3) the defect would manifest as harsh, jerky shifting, and loss of power; and (4) the defect was a safety hazard for drivers and the public.

31. Although Audi had pre-sale notice that the Class Vehicles contained the defective DSG Transmissions, Audi sold the Class Vehicles with the knowledge that the DSG Transmissions were capable of an extreme safety defect that could risk the lives of drivers, passengers, and the public.

32. Also in 2009, “Good Morning America” questioned Volkswagen regarding the issues surrounding the models that led to Audi instituting the recall in addition to the NHSTA investigation.⁶

33. Drivers were experiencing issues similar, if not identical, to those suffered by Plaintiffs and those described in the NHSTA complaints for the Class Vehicles: “Lisa Toler let the dealership repair her transmission, but she’s still uneasy, especially because she had four kids in her car when it stalled on the highway. ‘My kids didn’t wanna get in the car again after it was fixed,’ she said. ‘They’re like, ‘Is this car gonna break down on us?’”⁷

34. Years prior to Plaintiffs’ vehicle purchases in 2010, 2011, 2013, and 2016, the safety defect in the DSG Transmissions of Class Vehicles was well known to Audi from, at a minimum, both the NHSTA investigation and the extensive press coverage.

³ See NHTSA ACTION NUMBER: PE11023 “VEHICLE STALL/LOSS MOTIVE POWER” <https://www.nhtsa.gov/vehicle/2009/AUDI/A3#investigations> (emphases added).

⁴ *Id.*

⁵ *Id.*

⁶ <https://abcnews.go.com/GMA/story?id=8378724>.

⁷ *Id.*

Audi began manufacturing Class Vehicles in approximately the middle of 2009.

35. Class Vehicles were first sold or leased to members of the Class and Subclass in approximately September 2009.

36. However, it would take two years before Audi openly acknowledged the DSG Transmission defect in the Class Vehicles via TSB No. 2027295 that Audi knew about from the recall and NHSTA investigation over the same DSG Transmission issue in the 2009 A3s and Volkswagens before a single Class Vehicle was sold to Plaintiffs or the Class.

37. In September 2011, Audi issued TSB No. 2027295 to remedy “clacking or knocking issues” that “differ depending on driving situation or temperature” for the S4 and S5 Cabriolet models.

38. As shown below, Audi says that these issues are “normal” despite these noises being indicative of a transmission issue that involves a real and severe safety risk to the Class Members.

34 11 06 2027295/1 September 9, 2011.

APPLICABLE MODELS AND YEARS

Model(s)	Year	VIN Range	Vehicle-Specific Equipment
S4	2010 - 2012	All	S-Tronic Transmission
S5 Cabriolet			

CONDITION

Clacking or knocking noises directly after a load change:

- Overrun to acceleration.
- OR-
- Acceleration to overrun.

These noises differ depending on driving situation or temperature.

TECHNICAL BACKGROUND

Knocking noises are heard in the drivetrain.

PRODUCTION SOLUTION

Not applicable.

SERVICE

Such noises cannot be avoided and are normal.

It may be possible to reduce the noise by releasing tension on the drive train mountings.

1. Support engine in place using **10-222 A**.
2. Remove belly pan, front wheels, and front fender liners.
3. Remove and replace front motor mount through bolts right and left (Figure 1 and 2), but leave loose until step 5.

1 39. Further, the TSB notes there are “knocking noises directly after a load change” and
2 “knocking noises are heard in the drivetrain.”

3 40. As evidenced by the NHSTA complaints and consumer complaints, the vehicles make a
4 variety of sounds that are indicative of the defect manifesting in the Class Vehicles that cause the judder,
5 jerk, and transmission failures which have resulted in a variety of safety issues that NHSTA had
6 documented thoroughly in 2009 while investigating the 2009 A3s and affected Volkswagen models with
7 the identical transmissions.

8 41. Some drivers refer to the noise as “clanking,” “banging,” and/or “clunking.”

9 42. Upon information and belief, Audi was aware, or should have been aware, of the defect
10 present in the Class Vehicles before the first Class Vehicle was ever sold.

11 43. The defect causes the transmission to malfunction in, at a minimum, the following ways:
12 the Class Vehicles hesitate from a stop before acceleration, surge in acceleration, hard downshift at low
13 speeds, and suddenly shake and jerk violently (commonly known as “juddering” or “shuddering”)
14 (collectively, “transmission failures”).

15 44. Drivers’ reports confirm that the transmission failures occur at especially critical points,
16 including but not limited to: when a driver is trying to accelerate from a stop, often with other cars
17 behind the Class Vehicles; at low speeds when drivers intend to merge with traffic and shift gears to
18 merge onto a highway; when a driver is accelerating to gain speed to drive uphill; when a driver is
19 shifting gears at low speeds; and when a driver is attempting to decelerate the Class Vehicle. The
20 transmission defect, especially in these scenarios, creates a safety risk that can lead to serious accidents,
21 including those resulting in personal injuries or even deaths. The safety risks are to both the Audi drivers,
22 their passengers, and the public.

23 45. Audi has issued multiple TSBs that seek to remedy the transmission defect in the Class
24 Vehicles.

25 46. On July 19, 2013, in another attempt to remedy the transmission defect suffered by the
26 Class Vehicles, Audi issued TSB No. 2028715, which superseded the prior version issued in February
27 28, 2012.

47. As shown below, this bulletin, TSB No. 2028715, issued to remedy “rough gear changes, both when accelerating and when slowing down” and “rough driving power disruption.”

Reference Number(s): GROUP 37, NO. 13-09 (2028715/2),Â Date of Issue:Â July 19, 2013
 AUDI: A3, TT 2004-2014; Q7 2007-2014; A4, A5, A6, A7, A8, and Q5 2006-2014; S4, S5, S6, S7, and RS5 2010-2014
 GROUP: 37 - Automatic Transmission - Controls, Case
 Superseded Bulletin(s): GROUP 37, NO. 12-40,Â Date of Issue:Â February 28, 2012
 37 13 09 2028715/2 July 19, 2013. Supersedes Technical Service Bulletin Group 37 number 12-40 dated February 28, 2012.

APPLICABLE MODELS AND YEARS

Model(s)	Year	VIN Range	Vehicle-Specific Equipment
A3, TT	2004-2014	All	All with 02E DSG Transmission
Q7	2007-2014	All	All with 09D, 0AT or 0C8 AISIN Automatic Transmissions
A4, A5, A6, A7, A8, and Q5	2006-2014	All	All with 09L, 09E, 0B6 or 0BK, ZF Automatic Transmissions
S4, S5, S6, S7, and RS5	2010-2014	All	All with 0B5 DSG Transmissions

CONDITION

- Rough gear changes, both when accelerating and when slowing down.
- There is a rough driving power disruption that occurs sporadically and lasts for less than a second.

TECHNICAL BACKGROUND

After a mechatronics, torque converter, or complete gearbox replacement, the clutches must be adapted to the new component. This requires a gradual move of the clutch linings toward the optimal operating points in the most diverse load conditions. As a result, sporadic driving power disruptions lasting for less than a second or reduced shift comfort are possible over the first 500 miles. This is normal, and these issues will decrease over time.

The issues can also occur if the adaptation values of the gearbox were deleted.

PRODUCTION SOLUTION

Not applicable.

SERVICE

48. In November 2013, Audi issued TSB No. 2030477/6 for the Class Vehicles.

49. As shown below, in this TSB, Audi recommended a fix regarding a display that said “Gearbox malfunction: you can continue driving.”

Technical Service Bulletin



- **DTC P179D** (Coolant oil valve electrical fault) with symptom code **8030**
- **DTC P174C** (Partial transmission 1 valve 2 Electrical error) with symptom code **8026**
- **DTC P174A** (Valve 3 in the sub-gearbox 1, electric fault) with symptom code **8939**
- **DTC P174E** (Valve 3 in the sub-gearbox 2, electric fault) with symptom code **8940**
- **DTC P1740** (Clutch temperature monitoring) with symptom code **8031**
- The following message appears in the information display: "Gearbox malfunction: you can continue driving".
- One or more of the following fault entries are stored in the transmission control module, J217 (address word 02):
 - **DTC P17D8** (Torque limitation because of clutch temperature) with symptom code **8040**
 - **DTC P0726** (RPM signal of engine control unit, implausible signal) with symptom code **7980**
 - **DTC P174B** (Valve 4 in the sub-gearbox 1, electric fault) with symptom code **8027**
 - **DTC P174F** (Valve 4 in the sub-gearbox 2, electric fault) with symptom code **8028**
 - **DTC P179C** (Main pressure valve, electric fault) with symptom code **8029**

50. TSB No. 2030477/6 was the sixth TSB issued related to this issue.

51. On October 14, 2016, TSB No. 2030477/9 issued in an attempt to remedy the transmission defect suffered by the Class Vehicles.

52. This TSB was added because "[g]earbox malfunction: you can continue driving" appeared on drivers' screens.

53. Further, the appropriate repair was an "improved circuit board for the mechatronics unit."

54. TSB No. 2030477/9 appears below.

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GEARBOX MALFUNCTION MESSAGE IN CLUSTER (DTCS P17D800, P179D00, P174000, P174C, P174B, P174F, P179C, P174A, P174E)

TECHNICAL SERVICE BULLETIN

Reference Number(s): GROUP 35, NO. 16-24 (2030477/9), Date of Issue: October 14, 2016

AUDI: S4, S5 2010 - 2013; RS 5, S6, S7 2013

GROUP: 35 - Manual Transmission - Gears, Shafts

Superseded Bulletin(s): GROUP 35, NO. 16-21, Date of Issue: April 18, 2016

MODELS

35 16 24 2030477/9 October 14, 2016. Supersedes Technical Service Bulletin Group 35 number 16-21 dated April 18, 2016 for reasons listed below.

APPLICABLE MODELS AND YEARS

Model(s)	Year	VIN Range	Vehicle-Specific Equipment
S4, S5	2010 - 2013	All	S-Tronic 7 speed transmission
RS 5, S6, S7	2013	All	S-Tronic 7 speed transmission

CONDITION

REVISION HISTORY

REVISION HISTORY		
Revision	Date	Purpose
6	-	Revised <i>Required Parts and Tools</i> (Added bolts and oil pipe)
8	04/18/2016	Revised <i>Required Parts and Tools</i> (Added oil pipe, O-ring and drain plug seal)
7	02/01/2016	Revised <i>Required Parts and Tools</i> (Added ATF)

The following message appears in the information display: "Gearbox malfunction: you can continue driving". One or more of the following fault entries are stored in the transmission control module, J217 (address word 02):

- **DTC P17D8** (Torque limitation because of clutch temperature) with symptom code **8040**
- **DTC P0726** (RPM signal of engine control unit, implausible signal) with symptom code **7980**
- **DTC P174B** (Valve 4 in the sub-gearbox 1, electric fault) with symptom code **8027**
- **DTC P174F** (Valve 4 in the sub-gearbox 2, electric fault) with symptom code **8028**
- **DTC P179C** (Main pressure valve, electric fault) with symptom code **8029**
- **DTC P179D** (Coolant oil valve electrical fault) with symptom code **8030**
- **DTC P174C** (Partial transmission 1 valve 2 Electrical error) with symptom code **8026**
- **DTC P174A** (Valve 3 in the sub-gearbox 1, electric fault) with symptom code **8939**
- **DTC P174E** (Valve 3 in the sub-gearbox 2, electric fault) with symptom code **8940**
- **DTC P1740** (Clutch temperature monitoring) with symptom code **8031**

Tip: Fault codes and symptom codes must match *exactly* or this TSB should not be followed. Instructions for obtaining the symptom codes are in the Service section of this bulletin.

55. On February 27, 2017, TSB No. 2027363/4 issued regarding "[h]ard downshifting of multiple gears: 7-5, 4-3, 2-1. This may happen during just one of these shifts." Further TSB No. 2027363/4 issued due to the notification of "[g]earbox complaint! Journey can be continued!"

56. TSB No. 2027363/4 appears below.

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35 DRIVABILITY CONCERNS, S TRONIC TRANSMISSION (DTC P1724)

TECHNICAL SERVICE BULLETIN

Reference Number(s): GROUP 35, NO. 17-25 (2027363/4), Date of Issue: February 27, 2017

AUDI: S4, S4 cabriolet 2010 - 2011

GROUP: 35 - Manual Transmission - Gears, Shafts

Superseded Bulletin(s): GROUP 35, NO. 14-16, Date of Issue: May 1, 2014

APPLICABLE MODELS AND YEARS

35 17 25 2027363/4 February 27, 2017. Supersedes Technical Service Bulletin Group 35 number 14-16 dated May 1, 2014 for reasons listed below.

APPLICABLE MODELS AND YEARS

Model(s)	Year	VIN Range	Vehicle-Specific Equipment
S4, S4 cabriolet	2010 - 2011	All	0B5 Transmission

CONDITION

REVISION HISTORY

REVISION HISTORY		
Revision	Date	Purpose
4	-	Revised <i>Service</i> (SVM code updated and software versions updated)
3	05/01/2014	Revised title Revised <i>Service</i> (SVM code updated, part number added) Revised <i>Warranty</i> (Charge Battery Removed, Included in Software Update)
2	06/11/2013	Revised <i>Service</i> (SVM code updated, software versions updated) Revised <i>Condition</i> (Added information about bump felt after a stop)

One or multiple transmission-related concerns may be present, including:

- Harsh downshifting of multiple gears: 7-5, 4-3, 2-1. This may happen during just one of these shifts.
- A bump is felt after vehicle comes to a stop (2-1 downshift).
- Fluctuating engine speed after 5-4 shift with accelerator at 80-100% accelerator pedal position (kick-

MITCHELL 1 ARTICLE - 35 DRIVABILITY CONCERNS, S TRONIC TRANSMISSION (DTC P1724) TECHNICAL SERVICE BULLETIN

10/25/17, 3:39 PM

down).

- The driver information system displays the message "Gearbox complaint! Journey can be continued." After a key cycle the complaint is fixed. The vehicle was parked in gear lever position N and the ignition switched off.
- **DTC P1724** (signal for immobilizer, short circuit to ground) is logged in the Transmission control module (TCM) (J217) (address word 0002).

TECHNICAL BACKGROUND

Incorrect transmission software.

PRODUCTION SOLUTION

Improved transmission software.

SERVICE

SVM UPDATE INSTRUCTIONS

1. Follow all instructions in TSB 2011732: *00 Software Version Management (SVM), operating instructions*.
2. Update the transmission control module using the SVM action code as listed in the table below if necessary:

SOFTWARE INFORMATION

Model	Engine and/or Transmission	Old Software Part Number	Old Software Version	New Software Part Number	New Software Version (or higher)	SVM Action Code
S4/S5 Cabriolet (MY 2010)	All with S-Tronic	8K0 927 156 M	0008	8K0 927 156 M	0012	02A086
		8K1 927 156 C	0002	8K1 927 156 AD	0006	
		8K1 927 156 AD	0002	8K1 927 156 AD	0006	
S4/S5 Cabriolet (MY 2011)	All with S-Tronic	8K1 927 156 K	All	8K1 927 156 K	0013	

Tip: If the software version of the vehicle is lower than shown in the table for model year 2010, an update with SVM Code 02A002 may be necessary first.

Tip: If there is a concern with shifting after the software update, a basic setting and adaptation drive will be necessary. Follow GFF test plan.

<http://www.eautorepair.net/app/PrintItems.asp?S0=2113536&S1=1...1&MKN=Audi&MDN=S4&PS=134217728&MA=15&SID=1047874079&TSB=True>

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1 57. All of the above referenced TSBs are attempts, in one way or another, to remedy the
2 known transmission defect.

3 58. Despite Audi's knowledge of a problem that was widespread and serious enough to send
4 dealers this many TSBs related to the defect, Audi did not inform Plaintiffs or Class Members of the
5 defect.

6 59. Despite its knowledge of the defect, Audi continued to sell Class Vehicles with the
7 defectively designed and/or manufactured transmissions.

8 60. Despite its knowledge of the defect, Audi did nothing to recall the Class Vehicles to
9 address this defect.

10 61. The above listed and described TSBs evidence Audi's repeated inability to determine (a)
11 the cause of the defect and (b) a resolution for the defect.

12 62. Further, Audi continued to sell new and Certified Pre-Owned Class Vehicles even while
13 issuing TSBs for the defect, advertising and warranting them as if they were defect-free.

14 63. The Class Vehicles were defective from the time they were released by the manufacturer
15 into the stream of commerce.

16 64. Audi failed to disclose this material defect to Plaintiffs, Class Members, consumers, and
17 the general public.

18 65. Hundreds, if not thousands, of purchasers and lessees of the Class Vehicles have
19 experienced the transmission defect.

20 66. Complaints filed by consumers with the NHTSA and posted on the Internet demonstrate
21 that the defect is widespread.

22 67. The consumer complaints, as well as Audi's repeated TSBs, indicate that Audi was fully
23 aware of the widespread and common defect and its potential danger to drivers and the public. *See infra*.

24 68. Audi continued to manufacture, market, and distribute new Class Vehicles into model
25 year 2016 despite its failure to remedy the known transmission defect.

26 **Consumers Have Extensively Reported the Safety Defect to Audi.**

27 69. NHTSA provides a system for motor vehicle owners to report complaints relating to
28 safety defects that pose a risk of accidents, injuries, and even death in vehicles manufactured or imported

1 in the United States, including safety defects relating to transmission malfunctions.

2 70. The safety defect complaints are entered into NHTSA's consumer complaint automated
3 database, which manufacturers can—and do—access.

4 71. NHTSA also provides these consumer complaints to the vehicle's manufacturer,
5 including Audi.

6 72. Like other manufacturers, Audi reviews NHTSA consumer complaints.

7 73. Given that the vast majority of vehicle owners are not aware of NHTSA and/or its
8 reporting system, complaints received by NHTSA are a small minority of the overall number of
9 complaints made to Audi, which also received complaints directly and/or through their authorized
10 dealerships.

11 74. Since *at least* February 2012, Audi has received complaints of transmission defects and
12 safety concerns related to the Class Vehicles through NHTSA, Audi dealerships, and directly from
13 owners of Class Vehicles.

14 75. Upon information and belief, consumer complaints have been made directly to Audi
15 through its customer service department—information that is in the sole possession and control of Audi
16 but can be inferred by the repeated efforts to provide dealers guidance to repair the transmissions.

17 76. Despite Audi's knowledge of the transmission defect in the Class Vehicles and its safety
18 implications for drivers who cannot confidently change gears or accelerate without their Class Vehicles
19 juddering, Audi continues to conceal this knowledge. Audi has failed and continues to fail to disclose
20 that its Class Vehicles' transmissions are defective and dangerous.

21 77. Consumers continue to operate Class Vehicles and experience dangerous manifestations
22 of the defective transmission, putting drivers of Class Vehicles at increased risk for crashes.

23 78. Many consumers have submitted individual NHTSA complaints regarding Class
24 Vehicles experiencing the transmission defect described in Audi's TSBs. The number and content of
25 NHTSA consumer complaints of "juddering," "down shifting," "hesitation," "surge," and loss of
26 acceleration highlight the Class Vehicles' transmission defect.

27 79. These consumer complaints filed with NHTSA, and (like virtually all other automobile
28 manufacturers) regularly reviewed by Audi, highlight the safety risk caused by the defect, including

reports of near accidents and expressions of concern for drivers' families without response or resolution by Audi.

80. Audi received and was aware of these consumer complaints.

81. Some of the complaints filed with NHTSA about the transmission defect are included below:

- NHTSA Complaint on October 23, 2012 for 2010 Audi S4: "THIS ISSUE CONCERNS MY AUDI 2011 S4, A CAR THAT I TOOK DELIVERY ON IN APRIL, 2011. I HAVE HAD NUMEROUS PROBLEMS WITH THE CAR SINCE THE DELIVERY, HOWEVER, IT IS A SAFETY CONCERN THAT HAS CAUSED THIS SPECIFIC FILING. THE PROBLEM SEEMS TO BE WITH THE DSG TRANSMISSION. ON OCCASION, THE CAR WILL STRUGGLE AND "BUCK" IN LOW GEARS AT A VERY SLOW SPEED (OR FROM A COMPLETE STOP) UPON ACCELERATION. THIS DOES NOT HAPPEN OFTEN BUT IT HAS HAPPENED SEVERAL TIMES SINCE TAKING DELIVERY. I HAVE TRIED ADDRESSING THE PROBLEM WITH AUDI CORAL SPRINGS IN THE PAST BUT BECAUSE I CANNOT DUPLICATE THE PROBLEM, THEY ARE UNABLE TO HELP. CONSEQUENTLY, I HAVE NOT BEEN ABLE TO ALWAYS DRIVE THE CAR IN THE MANNER THAT I WOULD LIKE TO. HOWEVER, ON OCTOBER 9, 2012, THE PROBLEM HAPPENED AGAIN, ONLY THIS TIME, IT OCCURRED WHILE ATTEMPTING TO MERGE INTO TRAFFIC. I WAS IN A MERGE LANE, TRAVELING APPROX 3-5 MPH AND WHEN THE OPPORTUNITY AROSE, I ACCELERATED INTO THE TRAFFIC. AT THAT PRECISE MOMENT, THE CAR BUCKED VIOLENTLY (AS IT HAS DONE IN THE PAST) AND I HAD TO LIFT OFF THE THROTTLE TO CORRECT THE ISSUE. LET ME EXPRESS THAT I IN NO WAY AM ATTEMPTING TO CAUSE PROBLEMS FOR AUDI. I AM ONLY CONCERNED FOR MY SAFETY. ITS QUITE CONCEIVABLE THAT WHEN MY CAR HAS THIS TROUBLE WHILE MERGING INTO TRAFFIC THAT I COULD GET HIT FROM BEHIND AS I MUST IMMEDIATELY LIFT OFF THE ACCELERATOR TO RESOLVE THE ISSUE. *TR"
- NHTSA Complaint on May 13, 2017 for 2010 Audi S4: "MY S4 THREW THE "GEARBOX MALFUNCTION, REVERSE DISABLED" AS WELL AS A TPMS ERROR CODE WHILE IN TRAFFIC, AND WENT INTO LIMP MODE AND WOULD NOT ALLOW ME TO ACCELERATE. VERY DANGEROUS, AND INCONVENIENT. LIMPED HOME AT VERY SLOW SPEED WHILE TRANSMISSION CLUNKED AND STRUGGLED TO CHANGE GEARS. THE CODE HAS GONE AWAY SINCE I RESTARTED THE VEHICLE, AND NOW IT LUNGES FORWARD WHEN YOU'RE COMING TO A STOP, WHICH MAKES YOU FEEL LIKE YOU'VE BEEN HIT FROM BEHIND. TAKING OFF FROM A STOP IS BOUNCY AND SUPER JERKY. IF I HESITATE BEFORE ACCELERATING FROM A STOP, IT WILL SOMETIMES GO SMOOTHLY. THE ENGINE RPM'S SURGE WHILE COASTING TO A STOP, OR GOING DOWN, HILL ESPECIALLY WITH FOOT OFF THE PEDAL."
- NHTSA Complaint on April 8, 2017 for 2010 Audi S4: "WHEN DRIVING IN REGULAR

1 DRIVE BOX INDICATOR COMES ON. SAYING GEARBOX MALFUNCTION
 2 LIMITED FUNCTION. I ONLY HAVE 63125 MILES AND KEEP MY CAR
 3 MAINTENANCE.”

- 4 • NHTSA Complaint on March 9, 2017 for 2010 Audi S4: “ONE WEEK AFTER
 5 PURCHASING CAR, CAR EXHIBITING SYMPTOMS OF MECHATRONICS UNIT
 6 FAILURE (BANG/JERK WHEN STOPPING, RPM JUMPY IN 1/2ND GEAR,
 7 REVERSE IS JUMPY).”
- 8 • NHTSA Complaint on January 4, 2017 for 2010 Audi S4: “TPMS & GEARBOX
 9 MALFUNCTION CAR WILL NOT DRIVE IN REVERSE AND JERK IN FORWARD
 10 GEARS WHILE ALSO INCREASING REVS ALL BY ITSELF. MAJOR SAFETY
 11 HAZARD AS THE CAR WAS IN MOTION ON A MAJOR BUSY ROAD!”
- 12 • NHTSA Complaint on November 30, 2016 for 2010 Audi S4: “MY S4 LUNGES AT
 13 STOPS, OR IT FEELS LIKE I’VE BEEN HIT FROM BEHIND. TAKEOFF FROM A
 14 STOP IS BOUNCY, BOUNCY REVERSING, ESPECIALLY UPHILL. IF I TAKE MY
 15 FOOT OFF THE BREAKS AND HESITATE BEFORE ACCELERATING,
 16 SOMETIMES IT’S SMOOTH. THE TAC BOUNCES WHILE COASTING TO A STOP,
 17 OR GOING DOWN HILL WITH FOOT OFF THE PEDAL. THESE ISSUES HAVE
 18 BEEN INTERMITTENT THE LAST SEVERAL YEARS, BUT ARE NOW MORE
 19 PROFOUND. I’VE TAKEN THE CAR TO MY LOCAL DEALER SEVERAL TIMES
 20 TO NO AVAIL. VERY FRUSTRATING TO PAY 50K FOR A CAR THAT DRIVES
 21 LIKE THIS, WHILE AUDI PRETENDS IT’S NOT A PROBLEM. LOTS OF THESE
 22 ISSUES IN VARIOUS FORUMS.”
- 23 • NHTSA Complaint on August 11, 2016 for 2010 Audi S4: “WARNING: GEARBOX
 24 MALFUNCTION- YOU CAN CONTINUE DRIVING” APPEARS AFTER ABOUT 15
 25 MINUTES OF DRIVING. THE CAR DOES NOT MALFUNCTION, CHANGES
 26 GEARS WITHOUT PROBLEMS, AND WARNING REMAINS ON SCREEN. CAR
 27 HAS 58K MILES AND HAS BEEN WELL MAINTAINED. TOOK TO AUDI
 28 DEALERSHIP AND ADVISED MODULE G676 IS BAD. COST TO REPAIR:
 \$5334.39. THERE IS A TSB FOR THIS WARNING ON THIS ISSUE FOR SEVERAL
 YEARS OF AUDIS. AUDI WILL NOT COVER ANY OF THE COSTS TO REPAIR
 ALTHOUGH THEY REALIZE THIS IS A COMMON FAILURE AMONG THIS
 VEHICLE. THIS IS A MANUFACTURER ISSUE!! WHY ARE THEY NOT BEING
 HELD ACCOUNTABLE? HARD CLUNK WHEN SELECTING GEARS FROM P TO
 R TO D. WHEN COMING TO A STOP IN TRAFFIC THE CAR LURCHES FORWARD
 LIKE BEING REAR ENDED. SOMETIMES AFTER A COMPLETE STOP HAS BEEN
 MADE THE CAR WILL SURGE FORWARD A CONSIDERABLE AMOUNT WHICH
 MAY POSSIBLY CAUSE ME TO HIT THE CAR IN FRONT OF ME.”
- NHTSA Complaint on June 20, 2016 for 2010 Audi S4: “MECHATRONIC FAILURE.
 CAR WAS FULLY SERVICED AND MAINTAINED BY AUDI HOWEVER AUDI
 WILL NOT PAY FOR COST OF REPLACEMENT. COST OF REPLACEMENT IS

1 \$3,000 USD. CAR DISPLAYED GEARBOX MALFUNCTION LIMITED DRIVING
 2 ABILITY, PARKING BRAKE FAILURE THEN LOST ALL DRIVE AND CAR WAS
 3 STUCK IN N. I WAS UNABLE TO SHIFT OUT OF GEAR AND PUT THE CAR IN
 4 PARK THIS IS A SAFETY ISSUE.”

- 5 • NHTSA Complaint on September 30, 2015 for 2010 Audi S4: “THE S-TRONIC/DSG
 6 TRANSMISSION IS HAVING ISSUES DOWNSHIFTING. IT WILL REV UP HIGH
 7 WHEN COMING TO A STOP AS WELL. THERE IS ALSO A HARSH CLUNK WHEN
 8 SHIFTING FROM NEUTRAL-DRIVE-PARK. AUDI RECOMMENDED REPLACING
 9 THE MECHATRONICS UNIT IN THE TRANSMISSION. THE MECHATRONICS
 10 CIRCUIT BOARD HAS ALREADY BEEN REPLACED AT OWNERS COST AND
 11 NOW THEY WANT ME TO REPLACE THE ENTIRE MECHATRONIC UNIT AT MY
 12 COST (\$3800+). THIS IS A COMMON ISSUE WITH THESE CARS AND THERE
 13 NEEDS TO BE A RECALL FOR THESE TRANSMISSIONS. IT IS KNOWN THAT
 14 THESE TRANSMISSIONS ARE FAULTY AND AUDI DOES NOT WANT TO TAKE
 15 RESPONSIBILITY FOR THESE ISSUES.”
- 16 • NHTSA Complaint on September 30, 2015 for 2010 Audi S4: “AT APPROX 55K MILES,
 17 MECHATRONICS UNIT FAILED. EXTREMELY ROUGH SHIFTS FROM 1-2 AND
 18 2-1, LURCHING FORWARD AFTER COMING TO COMPLETE STOP. DEALERSHIP
 19 REPLACED MECHARONICS UNIT. AT 74K MILES ENTIRE DSG GEARBOX
 20 FAILED, WHILE ON HIGHWAY WITH VIRTUALLY NO POWER OR ABILITY TO
 21 ACCELERATE. LUCKILY TRAFFIC WAS AT NEAR STOP DUE TO RUSH HOUR,
 22 WAS ABLE TO MAKE IT TO NEXT OFFRAMP IN WHAT THEY CALL 'LIMP
 23 MODE'. DEALERSHIP IS REPLACING ENTIRE TRANSMISSION.”
- 24 • NHTSA Complaint on April 12, 2015 for 2010 Audi S4: “I HAVE JUST RECENTLY
 25 PURCHASED THIS CAR FROM AN OLDER MAN WHO WAS VERY KIND TO THE
 26 CAR. I HAVE HAD THIS VEHICLE FOR THE WHOLE TWO MONTHS WHEN I
 27 ENTERED MY GARAGE TO LEAVE FOR THE DAY I RECEIVED A"GEAR BOX
 28 MALFUNCTION, YOU MAY CONTINUE DRIVING: LIMITED FUNCTIONALITY
 CODE" I HAVE DONE MY HOURS OF RESEARCH AND HAVE FOUND OUT THIS
 IS A SIMPLY A PROBLEM LOT OF PEOPLE ARE HAVING. THIS IS SOMETHING
 AUDI IS SELLING ON THEIR CARS KNOWING THESE HAVE ISSUES!!!!!! I WANT
 TO TAKE FURTHER ACTION, AUDI SHOULD STEP UP AND REPAIR ALL THE
 BROKEN UNITS THEY HAVE BEEN SELLING. THESE UNITS HAVE GIVEN 95
 PERCENT OF AUDI OWNERS PROBLEMS. REALLY MAKES ME FEEL LIKE I'LL
 NEVER BUY ANOTHER. *TR”
- NHTSA Complaint on April 5, 2015 for 2010 Audi S4: “I WAS DRIVING AND CAME
 UP TO STOP LIGHT. CAR FLASHED UP WARNING SAYING GEARBOX
 MALFUNCTION LIMITED FUNCTIONALITY. CAR WOULD NOT CHANGE UP OR
 DOWN SMOOTHLY OR QUICKLY. LOSS OF POWER ON EVERY SHIFT FOR
 OVER A SECOND. HAD AUDI OF STEVENS CREEK CHANGE DSG FLUID A
 COUPLE OF WEEK PRIOR. *TR”

- 1 • NHTSA Complaint on April 4, 2015 for 2010 Audi S4: “THE DSG TRANSMISSION IS
2 VERY JERKY IN 1-2 GEARS IT OPERATES AS THOUGH THE CLUTCH IS NOT
3 ENGAGING/DISENGAGING PROPERLY. WHEN TRAVELING AT HIGHWAY
4 SPEEDS WITH THE CRUISE CONTROL ENGAGED THE ENGINE RPMS WANDER
5 AS THOUGH THE CLUTCH IS ENGAGING AND DISENGAGING. STARTING
6 FROM A DEADSTOP OR DRIVING AT LOW SPEEDS ARE VERY
7 UNCOMFORTABLE DUE TO THE JERKY-NESS. *TR”
- 8 • NHTSA Complaint on August 3, 2014 for 2010 Audi S4: “WHILE DRIVING IN RUSH
9 HOUR BUMPER TO BUMPER TRAFFIC THE 2010 AUDI S4 WITH THE DSG S-
10 TRONIC TRANSMISSION BECOMES VERY JERKY, CAUSING IT TO SURGE
11 WHEN STARTING AND STOPPING OR DRIVING AT LOW SPEEDS. AS A RESULT
12 IT IS HARD TO CONTROL, ESPECIALLY IN TIGHT TRAFFIC, PARKING AREAS,
13 OR AROUND PEDESTRIANS. ADDITIONALLY, WHEN COMING TO A
14 COMPLETE STOP WHEN IN THIS CONDITION THE SHIFT FROM 2ND GEAR TO
15 FIRST HAPPEN IN SUCH A WAY THE IT GIVE THE FEELING THAT THE CAR
16 HAS BEEN REAR ENDED. *TR”
- 17 • NHTSA Complaint on October 5, 2014 for 2010 Audi S4: “I WAS DRIVING ON A
18 NORMAL STRETCH OF FLAT HIGHWAY APPROXIMATELY 65MPH AND THE
19 DASH LIT UP LIKE A CHRISTMAS TREE OUT OF THE BLUE. CAR INDICATED
20 REVERSE GEAR NOT AVAILABLE, TRANSMISSION WARNING LIGHTS, AND
21 TIRE PRESSURE MONITOR SYSTEM PROBLEM ALL AT THE SAME TIME. CAR
22 WENT IN TO A "LIMP MODE" AND IT ONLY SHIFTED IN EVEN NUMBER
23 GEARS, AND FELT LIKE THE CAR WAS DANGEROUSLY UNSTABLE DUE TO
24 ERRATIC MISSED SHIFTING. THE CAR HAD RECENTLY BEEN IN PRIOR FOR A
25 SERVICE CHECK AND HAD NO CODES OR CHECK ENGINE LIGHT PROBLEMS
26 AT ALL! AFTER A LITTLE RESEARCH IT IS A WELL DOCUMENTED PROBLEM
27 THAT THE MECHATRONICS FAILS ON THIS VEHICLE RATHER OFTEN. THAT
28 WAS THE PROBLEM. COST OF REPAIR WAS NEAR 3300\$. I WAS
APPROXIMATELY 4K MILES OUT OF WARRANTY WHEN THIS OCCURRED,
AFTER NUMEROUS PERSISTENT EXCHANGES WITH AUDI OF AMERICA THEY
FINALLY DECIDED TO COVER THE FAILURE AS I WAS CONSIDERING
SEEKING LEGAL ACTION. (I HAD THE PART IN HAND AND COULD SUBMIT
IT TO FAILURE ANALYSIS ENGINEERING FOR CAUSE). ON AN POLL ON A
POPULAR AUDI WEBSITE, APPROXIMATELY 15% OF THESE MECHATRONICS
HAVE FAILED. THE DESIGN ISSUE IS A CIRCUIT CARD EMBEDDED IN HOT
TRANSMISSION FLUID THAT AFFECTS THE HYDRAULIC CONTROL OF THE
TRANSMISSION. IF THE TRANSMISSION IS DAMAGED IT CAN BE OVER A
+10K\$ REPAIR. *TR”
- NHTSA Complaint on August 2, 2014 for 2010 Audi S4: “PULLED OUT OF PARKING
LOT AND RECEIVED A GEARBOX MALFUNCTION WARNING ALONG WITH A
TPMS MALFUNCTION. WARNING ON DASH INDICATED THAT I COULD
CONTINUE DRIVING. I DROVE VEHICLE FOR APPROXIMATELY ANOTHER
MILE AND WHILE GOING THRU A ROUNDABOUT, THE CAR SHUT OFF. I WAS

1 ABLE TO PULL OVER TO THE SIDE OF THE ROAD AND GET THE VEHICLE
2 STARTED AGAIN. I CONTINUED THE REST OF THE WAY HOME FOR ABOUT 2
3 MORE MILES. THE MECHATRONIC UNIT WAS DETERMINED TO BE FAULTY
4 AND WAS REPLACED. *TR”

- 5 • NHTSA Complaint on January 29, 2014 for 2010 Audi S4: “MECHATRONICS UNIT
6 FAILURE IN DSG TRANSMISSION. HARD SHIFTS FROM 1ST TO 2ND AND 2ND
7 TO 1ST WHILE STOPPING. (VEHICLE MAKES LOUD DRIVETRAIN BANG NOISE,
8 SHAKES AND STOPS ABRUPTLY WHEN SLOWING DOWN AND TRYING TO
9 COME TO A STOP, ALMOST AS IF YOU SLOWED DOWN TO 5-10MPH AND THEN
10 SLAMMED ON THE BRAKES.) *TR”
- 11 • NHTSA Complaint on December 17, 2013 for 2010 Audi S4: “MECHATRONICS UNIT
12 FAILED IN THE VEHICLE AUTOMATIC TRANSMISSION. TRANSMISSION
13 FAILURE MESSAGE LISTED ON CAR DASHBOARD. CAR WOULD NOT SHIFT
14 OUT OF 1ST GEAR AND THERE WAS NO REVERSE GEAR. CAR HAD TO BE
15 TOWED TO THE DEALERSHIP FOR REPAIR. MULTIPLE WEB FORUM POSTS
16 STATED THE AUDI B8 MODELS SUFFERED THIS FAILURE FREQUENTLY. ”
- 17 • NHTSA Complaint on November 12, 2013 for 2010 Audi S4: “THE TRANSMISSION
18 BEGINS TO JERK AND SLAM CAUSING THE VEHICLE TO ACCELERATE JUST
19 PRIOR TO STOPPING IN STOP/GO TRAFFIC. NOTICED THAT THIS HAPPENS
20 ONLY AFTER DRIVING IN STOP/GO SITUATIONS AND USUALLY AROUND
21 5MPH. ALSO CLANKS/JERKS WHILE IN REVERSE. DEALER KEEPS SAYING
22 THEY CANNOT REPRODUCE”
- 23 • NHTSA Complaint on April 10, 2017 for 2011 Audi S4: “GEARBOX MALFUNCTION
24 WARNING AND THE TPMS MALFUNCTION CAME ON AT SAME TIME.
25 CONTINUED TO DRIVE IN LIMP MODE FOR ABOUT 1 MILE AND THE CAR
26 SHUT COMPLETELY OFF. START THE CAR BACK UP AND STILL SHOWING
27 WARNINGS. GET IT HOME AND ATTEMPT TO PUT INTO REVERSE AND THE
28 CAR WON'T ENGAGE. I JUST HAPPENED TO START THE CAR AGAIN AND ALL
LIGHTS WERE GONE. CAR WENT INTO ALL GEARS, DROVE FINE, AND GOT IT
TO THE DEALER. TWO HOURS LATER I GET IN TO GO TO THE STORE AND AS
SOON AS I SHIFT INTO D, THE TPMS AND GEARBOX MALFUNCTION LIGHT
FLASH UP TELLING ME I HAVE NO REVERSE AND I'M STILL GOOD TO DRIVE.
SO I DECIDE TO DRIVE DOWN THE STREET AND SEE WHAT THE ISSUE IS. AS
SOON AS THE CAR WENT TO SHIFT FROM 1ST TO 2ND IT SKIPPED, REVVED
IN NEUTRAL FOR ABOUT 2 SECONDS THEN DROPPED HARD INTO 3RD GEAR.
THE NEXT MORNING I WENT TO DRIVE THE CAR AND DROVE AROUND THE
NEIGHBORHOOD WITH NO PROBLEM - NO ERROR MESSAGE, NO FAULTY
SHIFTING, NO JERKING OR ANYTHING. SO I DECIDED TO RUN TO THE STORE
ABOUT 4 MILES AWAY AND SEE HOW IT HELP UP. I MADE IT TO THE STORE
AND HALFWAY BACK BEFORE BOOM - IT HAPPENED AGAIN. CAR WILL
START IN 1ST GEAR FINE, WENT SHIFTING INTO 2ND IT SLIPS INTO NEUTRAL
FOR ABOUT 2-3SEC THEN DROPS ABRUPTLY INTO 3RD, WHEN YOU HAVE

ENOUGH SPEED IT DOES THE SAME THING TRYING TO SHIFT INTO 4TH - SKIPS AND DROPS INTO 5TH, SAME THING INTO 6TH - SLIPS OUT OF 5TH AND DROPS HARD INTO 7TH. SLOWING DOWN WAS NOT A HUGE PROBLEM AS LONG AS YOU HAVE PLENTY OF ROOM TO TAKE IT EASY. IF YOU SLOWED TO FAST THE GEARS WOULDN'T KEEP UP AND IT WOULD JERK VERY HARD. THIS IS A SERIOUS MATTER SINCE IT IS A SYSTEM FACTORY FAILURE WITH THE DSG UNIT SIMPLE AS THAT. REASON WHY I AM CONTACTING THIS AGENCY AS THE CAR SHUT OFF ON ME WHILE YOU WERE DRIVING IT IN THE MIDDLE OF THE HIGHWAY AND I COULD HAVE BEEN HIT/KILLED THE FIRST TIME IT HAPPENED."

- NHTSA Complaint on December 29, 2016 for 2011 Audi S4: "DEC 5 2016, WHILE PULLING OUT OF MY DRIVEWAY IN ROUTE TO A SCHEDULED SERVICE APPOINTMENT AT AUDI OF ASHEVILLE, MY 2011 AUDI S4 LURCHED AND SEVERAL WARNINGS CAME UP INCLUDING 'DSG FAILURE, NO REVERSE, TPMS WARNING', FOLLOWED BY 'YOU MAY CONTINUE TO DRIVE'. WITHIN 5 MILES AND AT A SPEED OF APPROX 35 MPH THE VEHICLE SUFFERED A CATASTROPHIC LOSS OF DRIVE AND CAME TO A STOP IN A TWO LANE ROAD, THE ENGINE WAS STILL RUNNING, BUT NO CONNECTION WITH THE REST OF THE DRIVE-TRAIN WAS EVIDENT. I BELIEVE THE "MECHATRONICS" CONTROL UNIT FAILED CAUSING TOTAL LOSS OF DRIVE AND UNCONTROLLED, UNSYNCD GEAR CHANGES. I WAS APPROX 5 MILES FROM BEING ON AN INTERSTATE WITH A 6% GRADE. VEHICLE IS ONE OWNER, ORDERED AND SERVICED EXCLUSIVELY BY AUDI, 70000 MILES, NOT ABUSED. REQUIRES COMPLETE TRANSMISSION REPLACEMENT, WITH THE NOTED EXCEPTION OF THE TRANSMISSION THERE WAS NOTHING MECHANICALLY WRONG WITH THE REST OF THE VEHICLE."
- NHTSA Complaint on August 22, 2016 for 2011 Audi S4: "AT ABOUT 49K MILES THE CAR WOULD SOMETIMES LURCH BACKWARDS WHEN IN REVERSE OR GOING FROM REVERSE TO PARK. TOOK INTO MECHANIC. NO DIAGNOSTIC CODES SHOWED UP. AROUND 60K MILES THE CAR OVERHEATED. AUDI STATED IT NEEDED A NEW THERMOSTAT WHICH WAS AROUND \$1000. DROVE THE CAR ACROSS COUNTRY FROM CA TO CO. AROUND 62K MILES CAR WENT INTO LIMP MODE AND WOULD NOT GET OUT OF 1ST OR 2ND GEAR. "GEARBOX MALFUNCTION" WARNING CAME ON. STATED NOT TO GO INTO REVERSE. DROVE HOME SLOWLY. NEXT MORNING ALL WARNING LIGHTS WERE OFF. TOOK TO MECHANIC. NO PROBLEMS COULD BE FOUND. MAY 2016 AT 69K MILES CAR WENT INTO LIMP MODE AGAIN. COULDN'T GET RPMS UP. RESET CODES USING DIAGNOSTIC TOOL. DROVE FROM UTAH TO CO. CAR WENT INTO LIMP MODE PROBABLY 40 TIMES ON I-70. CAR WOULD LURCH FORWARD. MADE IT TO DEALER (PRESTIGE IN LAKEWOOD, CO). MECHATRONICS FOUND TO BE FAULTY AND CAR IN NEED OF ENTIRELY NEW TRANSMISSION. COST \$12,000. DEALERSHIP "PAID" \$8000. I PAID \$4000. THIS SEEMS TO BE A COMMON PROBLEM WITH THIS MAKE/MODEL/YEAR."

- 1 • NHTSA Complaint on April 19, 2016 for 2011 Audi S4: “DSG MECHATRONIC
2 FAILURE. WAS REPLACED UNDER CPO WARRANTY. HOWEVER PROBLEM
3 PERSISTS. WHILE DRIVING CAR GOES INTO NEUTRAL WITH TPMS +
4 GEARBOX MALFUNCTION. THIS IS A KNOWN PROBLEM WITH AUDI S4 2010
5 AND 2011.”
- 6 • NHTSA Complaint on February 3, 2016 for 2011 Audi S4: “THIS VEHICLE SUFFERS
7 FROM A FAULTY MECHATRONICS UNIT, CAUSING THE CAR TO MIS-SHIFT
8 AND SURGE WHILE DRIVING, OR FAIL TO MOVE FORWARD WHEN STOPPED
9 IN TRAFFIC IN "D" DRIVE, DUE TO PARKING BRAKE DRIVE-SELECT
10 MALFUNCTIONS. IN THESE CASES THE CAR MUST BE TURNED OFF, IN
11 TRAFFIC IN ORDER TO MOVE FORWARD AGAIN. THIS TECHNIQUE HAS
12 WORKED SO FAR BUT I AM AFRAID THIS WILL NOT WORK EVENTUALLY,
13 AND BECOME A SAFETY ISSUE ON THE ROADWAY.”
- 14 • NHTSA Complaint on September 2015 for 2011 Audi S4: “VEHICLE WOULD EXHIBIT
15 STRANGE SHIFTING BEHAVIOR IN LOW GEARS. WHEN UPSHIFTING OR
16 DOWNSHIFTING FROM 1-2-3 AND VICE VERSA THE TRANSMISSION WOULD
17 SOMETIMES HESITATE OR SHIFT INAPPROPRIATELY. AUDI DEALERSHIP
18 UPDATED SOFTWARE AND CHECKED THE PROBLEM NUMEROUS TIMES.
19 THEY COULD NOT FIND ANY PROBLEMS NOT ANY ERROR CODES. PROBLEM
20 WOULD COME AND GO USUALLY WHEN IT WAS HOT OUTSIDE. A LITTLE
21 OVER A YEAR (SEPT 2015) CAR HAS AGAIN BEEN ODDLY SHIFTING IN LOW
22 GEARS AND EVEN REVVING TO HIGH RPMs BEFORE DOWNSHIFTING IN
23 AUTOMATIC MODE. CAR FINALLY THREW AND ERROR CODE SAYING
24 GEARBOX MALFUNCTION AND CAR WENT INTO LIMP MODE. THE
25 TRANSMISSION COULD NOT FIND THE RIGHT GEARS TO SHIFT. CAR HAS
26 BEEN EXHIBITING SYMPTOMS OF MECHATRONIC UNIT FAILURE FOR OVER
27 A YEAR NOW.”
- 28 • NHTSA Complaint on September 22, 2015 for 2011 Audi S4: “AFTER TURNING MY
CAR ON A GEARBOX MALFUNCTION WARNING APPEARED BUT SAID I
COULD CONTINUE DRIVING. AFTER DRIVING THE MESSAGE AND SERVICE
LIGHT EVENTUALLY WENT OFF WITH EVERYTHING GOING BACK TO
NORMAL. THE CAR APPEARS TO HAVE A VERY COMMON MECHATRONIC
UNIT ISSUE THAT IS PART OF THE FAULTY DSG THAT AUDI HAS PUT IN THE
B8 S4 MODEL.”
- NHTSA Complaint on September 16, 2015 for 2011 Audi S4: “ROUGH/CLUNKING
SHIFTING IN STOP AND GO TRAFFIC. CAR WILL LURCH FORWARD, OR LACK
POWER WHEN ACCELERATING”
- NHTSA Complaint on January 7, 2015 for 2011 Audi S4: “I WAS ACCELERATING,
AFTER LEAVING A RESTAURANT, INTO TRAFFIC. I RECEIVED THE "DSG
MALFUNCTION LIGHT" AND SUDDENLY AT ABOUT 20MPH MY LURCHED

FORWARD AND FAILED TO RESPOND TO THE THROTTLE AND SHUT OFF IN TRAFFIC. CAR RESTARTED AFTER ABOUT 30 SECONDS BUT DEFINITELY NOT SOMETHING THAT SHOULD GO WITHOUT NOTICE. IF I WAS ON THE INTERSTATE AND THROTTLE WENT OUT SITUATION COULD HAVE BEEN MUCH WORSE. *TR”

- NHTSA Complaint on January 6, 2015 for 2011 Audi S4: “I WAS CRUISING AT APPROX. 55MPH ON MY WAY TO WORK. I HAD NO SYMPTOMS OF ANYTHING PRIOR TO THE TRANSMISSION FAILURE. SUDDENLY THE CAR STARTED VIBRATING AND DECELERATING AS IF I HAD A FLAT TIRE. I MADE AN EMERGENCY MERGE INTO THE CENTER MEDIAN AND WAS LUCKILY NOBODY REAR ENDED ME. AFTER INSPECTION OF MY TIRES WHICH WERE OK I GOT BACK IN CAR. D OR R WOULD NOT WORK. THE CAR WOULD NOT MOVE.”
- NHTSA Complaint on December 28, 2014 for 2011 Audi S4: “TRANSMISSION SHIFTS CLUNK WHEN COMING TO A STOP FROM 3, 2, TO 1, AND SHIFTS NOISILY AND ABRUPTLY PARTICULARLY IN STOP AND GO TRAFFIC, OR IN EXTREME TEMPERATURES IE MIDDLE OF SUMMER ON A HOT DAY. *TR”
- NHTSA Complaint on December 1, 2014 for 2011 Audi S4: “AUDI RECENTLY REPLACED MY 2ND THERMOSTAT (1ST WAS 11/2012 AND THE 2ND WAS 11/24/2014), NOT UNDER WARRANTY, AND RETURNED MY CAR TO ME AFTER HOLDING ONTO MY CAR FOR TWO WEEKS. I WAS TOLD THAT MY VEHICLE CHECKED OUT OKAY VIA A DIAGNOSTIC AND MECHANICS REVIEW. I DROVE MY S4 FOR TWO DAYS AND WHILE DRIVING, I RECEIVED AN INDICATOR WARNING THAT READ, GEARBOX MALFUNCTION REVERSE NOT AVAILABLE, YOU CAN STILL DRIVE. I THEN NOTICED THAT THE CAR BEGAN TO VIOLENTLY BUCK WHEN I ACCELERATED. THE CAR SURGED FORWARD WHILE DRIVING IN TRAFFIC WHICH WAS ALARMING TO BOTH MY 10YR OLD DAUGHTER AND I. OTHER CARS HAD TO DRIVE AROUND US AND ONE VEHICLE ALMOST HIT MY CAR IN THE REAR. I CONTINUED TO DRIVE AT A LIMITED SPEED AND IMMEDIATELY, THE TPMS WARNING INDICATOR LIT UP AND THE CAR LOST SPEED. THE CAR WOULD BARELY MOVE AT 10 MPH AND I LIMPED BACK TO A RELATIVES UNDERGROUND PARKING GARAGE. ONCE I PARKED I COULD NOT GET THE CAR TO REVERSE OUT OF THE PARKING SPACE. I CALLED AUDI AND THEY STATED THAT I WOULD HAVE TO TOW THE VEHICLE TO THE NEAREST AUDI SERVICE CENTER. THE VEHICLE WAS TOWED TO AUDI AND I AM WAITING TO HEAR THE RESULTS OF THEIR FINDINGS. I HAVE ALREADY INVESTED OVER \$1,750 IN VEHICLE REPAIRS (THERMOSTAT AND REAR BRAKES/ROTORS). I DO NOT WANT TO CONTINUE TO INVEST MONEY INTO THIS VEHICLE PIT. AUDI NEEDS TO RECALL THESE FAULTY PARTS (THERMOSTAT AND MECHATRONIC) AND STAND BEHIND THEIR PRODUCT. I'VE SEEN NUMEROUS COMPLAINTS IN FORUMS AND ON THIS SITE REFERENCING THESE SAME ISSUES. *JS”

- 1 • NHTSA Complaint on August 17, 2014 for 2011 Audi S4: "I CURRENTLY DRIVE A
2 2011 AUDI S4 DSG AUTOMATIC VEHICLE. THE CAR BUCKS INTERMITTENTLY
3 WHEN GOING FROM STOP TO 1ST-2ND-3RD GEAR OR VICE VERSA. IT
4 USUALLY OCCURS IN SLOW TRAFFIC AND WHEN THE CAR/TRANSMISSION
5 HAS BEEN ON FOR AWHILE. THE CAR WAS TAKEN TO AUDI FOR REPAIR AND
6 THE SOFTWARE AND ADAPTABILITY WAS UPDATED. THIS HELPED SMOOTH
7 OUT THE SHIFTS BUT THE CAR STILL CONTINUED TO BUCK AT TIMES
8 (ESPECIALLY IN DYNAMIC MODE), THE CAR WAS TAKEN BACK TO AUDI
9 AGAIN, BUT THE TECHNICIANS DID NOT FIND ANY PROBLEMS WHEN
10 DRIVING THE CAR. THE PROBLEM SEEMS TO BE A FAULTY MECHATRONIC
11 UNIT WHICH IS KNOWN TO FAIL IN EARLY 2010-2011 S4'S. MULTIPLE PEOPLE
12 HAVE GONE THROUGH THE SAME PROBLEMS UNTIL THIS UNIT WAS
13 REPLACED. AUDI OF AMERICA HAS BEEN CONTACTED AND DID NOT OFFER
14 ANY SOLUTION AT THIS TIME."
- 15 • NHTSA Complaint on January 7, 2014 for 2011 Audi S4: "WHILE TRAVELING AT
16 APPROXIMATELY 40 MPH, A WARNING MESSAGE CAME UP DO THE
17 DASHBOARD SAYING "GEARBOX MALFUNCTION, REVERSE GEAR NOT
18 AVAILABLE, YOU CAN STILL DRIVE". AT THE SAME TIME, THE TPMS
19 WARNING INDICATOR CAME ON. THE CAR BEGAN TO LOOSE SPEED AND
20 WOULDN'T RESPOND TO THE THROTTLE, AFTER A FEW SECONDS IT WOULD
21 SURGE FORWARD, AND THEN LOOSE SPEED AGAIN. THIS REPEATED A FEW
22 TIMES, UNTIL I CAME TO A STOP AT AN INTERSECTION. AT THE
23 INTERSECTION, I TURNED OFF THE IGNITION AND RESTARTED THE CAR.
24 THE CAR BEHAVED NORMALLY FOR ABOUT 25 MINUTES OF DRIVING. THEN
25 ON THE FREEWAY AT ABOUT 65 MPH THE PROBLEM RECURRED. I WAS ABLE
26 TO LIMP TO THE NEAREST AUDI DEALERSHIP, WHERE THE CAR IS NOW
27 BEING EVALUATED. I'M VERY CONCERNED ABOUT THIS ISSUE, BECAUSE AT
28 TIMES I WAS UNABLE TO MAINTAIN THE SAME SPEED AS THE FLOW OF
TRAFFIC AND AN ACCIDENT COULD HAVE OCCURRED. *TR"
- NHTSA Complaint on October 23, 2012 for 2011 Audi S4: "THIS ISSUE CONCERNS
MY AUDI 2011 S4, A CAR THAT I TOOK DELIVERY ON IN APRIL, 2011. I HAVE
HAD NUMEROUS PROBLEMS WITH THE CAR SINCE THE DELIVERY,
HOWEVER, IT IS A SAFETY CONCERN THAT HAS CAUSED THIS SPECIFIC
FILING. THE PROBLEM SEEMS TO BE WITH THE DSG TRANSMISSION. ON
OCCASION, THE CAR WILL STRUGGLE AND "BUCK" IN LOW GEARS AT A
VERY SLOW SPEED (OR FROM A COMPLETE STOP) UPON ACCELERATION.
THIS DOES NOT HAPPEN OFTEN BUT IT HAS HAPPENED SEVERAL TIMES
SINCE TAKING DELIVERY. I HAVE TRIED ADDRESSING THE PROBLEM WITH
AUDI CORAL SPRINGS IN THE PAST BUT BECAUSE I CANNOT DUPLICATE
THE PROBLEM, THEY ARE UNABLE TO HELP. CONSEQUENTLY, I HAVE NOT
BEEN ABLE TO ALWAYS DRIVE THE CAR IN THE MANNER THAT I WOULD
LIKE TO. HOWEVER, ON OCTOBER 9, 2012, THE PROBLEM HAPPENED AGAIN,
ONLY THIS TIME, IT OCCURRED WHILE ATTEMPTING TO MERGE INTO
TRAFFIC. I WAS IN A MERGE LANE, TRAVELING APPROX 3-5 MPH AND WHEN

THE OPPORTUNITY AROSE, I ACCELERATED INTO THE TRAFFIC. AT THAT PRECISE MOMENT, THE CAR BUCKED VIOLENTLY (AS IT HAS DONE IN THE PAST) AND I HAD TO LIFT OFF THE THROTTLE TO CORRECT THE ISSUE. LET ME EXPRESS THAT I IN NO WAY AM ATTEMPTING TO CAUSE PROBLEMS FOR AUDI. I AM ONLY CONCERNED FOR MY SAFETY. ITS QUITE CONCEIVABLE THAT WHEN MY CAR HAS THIS TROUBLE WHILE MERGING INTO TRAFFIC THAT I COULD GET HIT FROM BEHIND AS I MUST IMMEDIATELY LIFT OFF THE ACCELERATOR TO RESOLVE THE ISSUE. *TR”

- NHTSA Complaint on July 6, 2017 for 2012 Audi S4: “PREMATURE TRANSMISSION MECHATRONIC FAILURE. CAR UNABLE TO REVERSE DURING A 3 POINT TURN IN A ROADWAY ACROSS TRAIN TRACKS. SINCE NEW THE CAR HAD A CLUNKY TRANSMISSION. IT PROGRESSIVELY GOT WORSE BUT WHEN BROUGHT TO THE DEALER IT WAS ALWAYS, "OPERATING WITHIN MANUFACTURER'S SPECIFICATIONS" THIS IS THE 2ND AUDI IN A ROW THAT HAS BEEN BROUGHT IN MULTIPLE TIMES FOR A PROBLEM THAT THE DEALER CLAIMS ISN'T A PROBLEM AND IS "OPERATING IN SPECS OF THE MANUFACTURER".
- NHTSA Complaint on June 14, 2017 for 2012 Audi S4: “DSG TRANSMISSION IS SHIFTING VERY ROUGH AND SOMETIMES SLIPS. ALSO LURCHES FORWARD SUDDENLY FROM A STOP CAUSING THE CAR TO LUNGE FORWARD.”
- NHTSA Complaint on April 17, 2017 for 2012 Audi S4: “GEARBOX MALFUNCTION (WITH CODES P179E AND P179F) MAY CAUSE THE CAR ENTER ONE OF THE "LIMP MODE" STATES, WHICH CAN CUT ENGINE POWER FROM THE TRANSMISSION. A MESSAGE ON THE DASH MAY SAY "GEARBOX MALFUNCTION" WITH A MESSAGE IF THE CAR IS DRIVEABLE OR MUST BE BROUGHT TO THE REPAIR SHOP. IN SOME CASES, THIS LOSS OF POWER CAN MAKE THINGS DIFFICULT TO PULL OVER SAFELY, AS THE STALL CAN HAPPEN IN AN INTERSECTION, OR IN STOP AND GO TRAFFIC ON THE FREEWAY. AUDI HAS RECOGNIZED THIS PROBLEM IN THE FORM OF A TSB (2032211), HOWEVER, ALL CARS WITH THIS PARTICULAR TRANSMISSION MAY EXPERIENCE A SIMILAR ISSUE, AT ANY TIME, DESPITE FOLLOWING MANUFACTURER SERVICE INTERVALS. THE ISSUE MAY APPEAR TO BE INTERMITTENT AND MAY NOT ENTER FULL LIMP MODE UNTIL MANY MILES LATER. MY INITIAL ENCOUNTER WITH QUESTIONABLE TRANSMISSION BEHAVIOR WAS ABOUT 10-15K MILES PRIOR. THIS PARTICULAR CASE DOCUMENTED WAS THE WORST SCENARIO, BUT SIMILAR SCENARIOS (COMING OFF THE FREEWAY AND STALLING SHORTLY AFTER STOPPING, OR NOT BEING ABLE TO ENGINE BRAKE PROPERLY DUE TO TRANSMISSION REFUSING TO SHIFT) HAVE ALSO BEEN EXPERIENCED.”
- NHTSA Complaint on October 24, 2015 for 2012 Audi S4: “DSG TRANSMISSION STARTED TO SHIFT POORLY. SHIFTS WOULD "SLIP" BETWEEN GEARS AND SOMETIMES IT WOULD DOWN SHIFT VERY HARD. THIS OCCURED MOSTLY

IN URBAN DRIVING, STOP AND GO.”

- NHTSA Complaint on September 16, 2015 for 2012 Audi S4: “VERY ABRUPTLY SHIFTS UP OR DOWN LAUNCHING THE CAR FORWARD WITHOUT WARNING”
- NHTSA Complaint on March 19, 2015 for 2012 Audi S4: “I OWN A 2012 AUDI S4 WITH A 7 SPEED DSG TRANSMISSION AND NOTICE HARD SHIFTING IN 1-2 AND 2-1 AND ALSO INTO REVERSE AND DRIVE. I HAVE READ ABOUT THIS BEING A MECHTRONICS UNIT OR WHOLE REPLACEMENT OF THE TRANSMISSION CAN BE NEEDED. AFTER BRINGING THE CAR INTO AUDI 4 TIMES WITH THESE ISSUES THEY FINALLY SAID THAT I NEED TO REPLACE THE TCU AND UPDATE SOFTWARE ON THE ECU. I ASKED IF THIS WILL FIX THE ISSUE AND THEY SAID THAT THIS REPAIR WILL BE THE FIRST IN AN ORDER OF PARTS TO BE REPLACED TO HOPEFULLY FIX THE PROBLEM. NEXT WOULD BE THE MECHTRONICS OR THE ENTIRE TRANSMISSION. I BOUGHT THE CAR WITH 29K MILES AND 8 MONTHS LEFT ON THE FACTORY WARRANTY FROM A LOCAL SMALL DEALERSHIP. AFTER PURCHASING THE CAR AND GOING TO THE DEALER WITH THESE ISSUE 4 TIMES..NOW THEY TELL ME AUDI VOIDED THE POWER TRAIN WARRANTY OF THE CAR AT 5K MILES DUE TO A ECU TUNE. SO THEY ARE DENYING THE CLAIM. I TALKED TO A LOCAL TUNER TO SEE IF THE CAR HAD A TUNE ON THE ECU..THEY SAID NO..I ALSO CALLED SEVERAL NATIONWIDE TUNERS TO ASK THEM IF MY CARS VIN WAS ON RECORD OF GETTING A TUNE AND THEY SAID NO. SO SINCE IT WAS BEFORE I BOUGHT THE CAR I DO NOT KNOW WHAT COMPANY OR FOR HOW LONG IT WAS TUNED FOR. THE LOCAL DEALER NEVER TOLD ME WHILE BRINGING THE CAR IN FOR TRANSMISSION ISSUES THAT I DID NOT HAVE A POWER TRAIN WARRANTY UNTIL A MAJOR COST WAS INVOLVED. HEY KNOW THERE ARE PROBLEMS WITH THESE TRANSMISSION HENCE THE UPDATED TCU AND SOFTWARE UPDATE TO THE ECU AS WELL AS THE UPDATED PART# OF THE MECHTRONICS UNIT THEY WOULD REPLACE IT WITH. THIS SHOULD BE SOMETHING AUDI SHOULD COVER UP TO 100K WITH A TUNE ECU OR NOT. A ECU TUNE HAS NO CONTROL OVER THE TRANSMISSION TCU OR THE PARTS IN THE TRANS.”
- NHTSA Complaint on November 8, 2016 for 2013 Audi S4: “THE PROBLEMS STARTED BY A WARNING ON MY DISPLAY SAYING TO PULL OVER GEAR BOX OR TRANSMISSION FAILURE. YOU HAVE SECONDS TO PULL OVER BEFORE THE CAR NO LONGER FUNCTIONS. EVEN THOUGH YOU ARE IN GEAR ALL THAT HAPPENS IS THE ENGINE REVS AND YOU GO NO WHERE. MY CAR HAS ONLY 38,500 MILES ON IT AND IS OUT OF WARRANTY BY A COUPLE OF MONTHS. I HAD THE CAR TUNED ADDING SOMEWHERE AROUND 100 HP 6,000 MILES BEFORE THIS HAPPENED AND AUDI SAYS THIS IS WHAT CAUSED THE ISSUE. TO FIX THE SENSOR ERROR CODE P179E00 WAS AROUND \$5,000. 00 EVEN THOUGH THERE HAS BEEN A SERVICE BULLETIN OUT FOR THIS PROBLEM FOR MORE THAN A YEAR. AFTER LOOKING AROUND DECIDED TO HAVE AUDI DO THE REPAIR BUT WITHIN AN HOUR OF LETTING

THEM KNOW TO GO AHEAD WITH REPAIRS THEY CALLED ME BACK AND TOLD ME THAT IT COULD BE THE WHOLE TRANSMISSION WHEN THEY TESTED THE FLUID IT CAME BACK WITH SOME METAL SHAVING IN IT. THIS WOULD BE A \$12,000.00 REPAIR. THE SAFETY OF THIS TRANSMISSION IS IN QUESTION FOR THE FACT THAT THERE HAS BEEN A SERVICE BULLETIN OUT FOR THIS TRANSMISSION EVEN THOUGH AUDI OF AMERICA DENIES THAT MY VIN IS PART OF THE SERVICE RECALL. IT IS PRETTY SCARY WHEN YOU DRIVING AND THE TRANSMISSION JUST SHUTS DOWN AND YOU AND YOUR CAR ARE JUST STUCK IN TRAFFIC AS CARS DODGE YOU AND FLY BY YOU AND YOUR DEAD CAR.”

- NHTSA Complaint on October 15, 2016 for 2014 Audi S4: “WHILE DRIVING, A SUDDEN BRAKE FOLLOWED BY A QUICK ACCELERATION LEADS TO BUCKING WITH ACCELERATION AND THE ENGINE REMAINING REVVED UP. WITH BRAKING, THE CAR LUNGES FORWARD. THE ONLY WAY TO CHANGE IT IS BY SHUTTING THE CAR OFF ENTIRELY. HAS OCCURRED AT LEAST 7 TIMES IN PASSED 2.5 YEARS. RESEARCH INDICATES A FAULTY MECHATRONICS UNIT, BUT 2 NY DEALERSHIPS CONTINUE TO STATE NO ISSUE.”
- NHTSA Complaint on March 23, 2016 for 2010 Audi S5: “2010 AUDI S5 S-TRONIC TRANSMISSION JUMPS AND JERKS WHEN COMING TO A COMPLETE STOP.”
- NHTSA Complaint on September 18, 2016 for 2010 Audi S5: “WHEN DRIVING IN HOT WEATHER, ON A BUSY BOULEVARD, COMING TO A RED LIGHT, AS AUTOMATIC TRANSMISSION SHIFTS DOWN TO FIRST GEAR, CAR LURCHES FORWARD WITH A STRONG BANG IN THE TRANSMISSION. ALMOST HIT PEDESTRIANS IN THE CROSSWALK. IF I WAS NOT HEAVY ON THE BRAKE PEDAL THERE WOULD NO DOUBT HAVE BEEN INJURIES. THIS IS NOT AN ISOLATED INCIDENT. IT HAS HAPPENED MANY TIMES AND WITHOUT WARNING. AUDI SERVICE TELLS ME IT IS THE MECHATRONIC UNIT IN THE TRANSMISSION MALFUNCTIONING WHEN IT GETS HOT. NEEDS TO BE REPLACED. I HAVE BEEN COMPLAINING ABOUT THIS TO AUDI SERVICE FOR MORE THAN FOUR YEARS AND IT IS GETTING WORSE. AUDI HAS BEEN STALLING AND HAS REFUSED TO REPLACE THE MECHATRONIC UNIT UNDER WARRANTY.”
- NHTSA Complaint on November 20, 2015 for 2010 Audi S5: “TL* THE CONTACT OWNS A 2010 AUDI S5. THE CONTACT STATED THAT THE VEHICLE LUNGED FORWARD WITHOUT WARNING WHEN THE GEAR ENGAGED. THE DEALER DIAGNOSED THAT THE MECHATRONICS WAS DEFECTIVE AND NEEDED TO BE REPLACED. THE VEHICLE WAS REPAIRED; HOWEVER, THE FAILURE PERSISTED. THE CONTACT MENTIONED THAT THE VEHICLE WENT BACK TO THE DEALER TWO MORE TIMES AND THE TECHNICIAN DIAGNOSED THAT THE TRANSMISSION NEEDED TO BE REPLACED. THE MANUFACTURER WAS NOT MADE AWARE OF THE FAILURE. THE VEHICLE WAS NOT REPAIRED.

THE FAILURE MILEAGE WAS 65,000.”

- NHTSA Complaint on October 9, 2015 for 2010 Audi S5: “THERE IS A KNOWN PROBLEM WITH THE AUDI S-TRONIC TRANSMISSION WHERE THE MECHATRONICS UNIT WHICH CONTROLS THE SHIFTS IS DEFECTIVE. THIS WILL RESULT IN THE MECHATRONIC NEEDING TO BE REPLACED TO THE TUNE OF 4 THOUSAND DOLLARS OR AT WORST THE TRANSMISSION TO BE REPLACED FOR 11 THOUSAND DOLLARS. THE CAR WILL START DOING HARD 2 TO FIRST SHIFTS AND ALMOST THROW YOU INTO THE CAR IN FRONT OF YOU IF YOU DO NOT PUSH DOWN HARD ON THE BRAKES. THIS HAPPENS ON A CITY STREET OR IN HEAVY TRAFFIC ON THE HIGHWAY AND BEGINS WHEN THE TRANSMISSION OIL GETS HOT. TECHNICALLY THE VEHICLE CAN BE IN MOTION OR STATIONARY AS IT HAPPENS WHEN IT SHIFTS DOWN TO FIRST GEAR. THIS TRANSMISSION IS IN THE 2010 AUDI S5 CABRIOLET ONLY AS THE COUPE HAS A DIFFERENT DRIVETRAIN. THE AUDI S4 HAS THE TRANSMISSION AS WELL AND EXPERIENCES THE SAME ISSUES.”
- NHTSA Complaint on September 16, 2015 for 2010 Audi S5: “AFTER DRIVING IN STOP AND GO DRIVING FOR A PERIOD OF TIME THE TRANSMISSION STARTS TO ACT UP. WHEN COMING TO A COMPLETE STOP THE CAR WILL SHIFT DOWN INTO FIRST GEAR AFTER THE STOP AND CAUSE THE CAR TO LEAP FORWARD. I HAVE ALMOST REAR ENDED SEVERAL CARS AS A RESULT OF THIS. IT IS A WELL KNOW PROBLEM WITH THE AUDI S-TRONIC TRANSMISSIONs FOUND IN THE AUDI S5 CABRIOLET AND THE AUDI S4 MODELS. THE OIL IN THE MECHATRONICS UNIT HEATS UP AND CAUSES PROBLEMS WITH THE CIRCUITRY WHICH CAUSES THE ISSUE. I HAVE ALREADY HAD IT IN ONCE FOR A "SOFTWARE UPDATE" TO THE TUNE OF 800 DOLLARS WHICH DID NOTHING. NOW IT IS LOOKING LIKE THEY WILL NEED TO REPLACE THE COMPONENT WHICH CAN COST UP TO 11 THOUSAND DOLLARS IF THE TRANSMISSION HAS BEEN DAMAGED.”
- NHTSA Complaint on January 18, 2017 on 2011 Audi S5: “UNABLE TO GET PARTS FOR FAULTY MSE TRANSMISSION CURRENTLY IN MY 2011. AUDI UPGRADED BECAUSE OF KNOWN PROBLEMS TO NSY MODEL TRANSMISSION AND EXPECTS OWNER TO PAY EXPENSE. THEY DID NOT AND HAVE NOT MAKE THE CUSTOMER/CONSUMER AWARE OF THIS UNTIL YOU FORCED TO TAKE IT IN FOR SERVICE DUE TO SENSORS AND LIMITED FUNCTIONALITY IN DRIVING CAPABILITIES. VEHICLE HESITATES AND DROPS GEARS WHILE IN MOTION. THIS OCCURRED ON A MAJOR HIGHWAY CREATING A HAZARDOUS EVENT, IN ADDITION THEY WILL ALSO CHARGE YOU FOR A DIAGNOSIS AND BOGUS SERVICE WHILE THEY ARE ALREADY AWARE THAT THE PARTS ARE NOT AVAILABLE FOR THAT TRANSMISSION. UPON RESEARCH I HAVE FOUND THIS IS NOT AN ISOLATED PROBLEM, OR DUE TO DRIVING, MILEAGE, WEAR AND TEAR, PREVIOUS OWNER, LACK OF WARRANTY OR WHATEVER ELSE THEY WANT TO COME UP WITH. *TR”

- NHTSA Complaint on October 17, 2017 for 2013 Audi RS5: "THE MECHATRONIC UNIT ON MY VEHICLE NEEDED TO BE REPLACED. I WAS DRIVING AND A WARNING POPPED UP ON MY DASHBOARD SAYING "TRANSMISSION MALFUNCTION, YOU MAY CONTINUE DRIVING". I WAS QUOTED \$5000 FOR THE . THIS IS A COMMON ISSUE NOT ONLY WITH MY MODEL, BUT ACROSS ALL AUDI MODELS WITH THE DSG TRANSMISSION. AUDI CUSTOMERS SHOULD NOT BE FORCED TO PAY FOR AUDI PUTTING FAULTY EQUIPMENT IN THEIR VEHICLES."

Consumer complaints from non-NHTSA websites include, but are not limited to, the following:

- Complaint on February 01, 2012 for a 2010 S4 on Carcomplaints.com: When in traffic in 2nd gear, when I start to accelerate, the car feels like it changes gear automatically and almost feels like it wants to stall before jerking and pulling off. The actual gear does not change though. In peak hour traffic is very annoying and to think this is a high performance car and most expensive and luxurious one I have eve purchased. I expect comfort when driving, but whe in slow traffic, the drive is VERY uncomfortable and frustrating. It has been to the same Audi dealer 4 times and the problem is only fixed temporarily and then revers back to its usual habit. I purchased the car bring new in the 1 st week of January and started noticing the problem from about 500km. I thought the engine was just running in so I only reported it officially at 1000km. I have now driven it for 7000 and still the problem cannot be fixed.The technician struggle to replicate the problem but when I drive it all the time, the problem is there. What do I do?⁸
- Complaint on September 9, 2010 for 2010 S4 on Audi World: Hello guys (sorry for my english, i need your advice with S-TRONIC. I have S5 sportback (with V6T engine with 2700 miles) and here is my problem (if its problem or not?) : My S-tronic doesnt have any problem of that i found on internet, its all smooth on first and second gear, no problems overall. But if i hold acceleration pedal down, wait until RPM is on max (7000) and then is gearbox upshifting on next gear ... its also with no problem. I get problem when i drop foot from acceleration pedal exactly in second when engine reach max RPM and gearbox is upshifting - i get strongly jerk. If i drop foot at 6800 or 6900 rpm, or wait second on pedal to let gearbox upshift and then i drop foot, its all with no problem and smooth. Is it normal, or problem? I really dont know if i should visit service or just let it be . Thank you very much for your help, i hope you all understand what i wrote ,-.)⁹
- Complaint on September 29, 2010 for 2010 S4 on Audi World: It's a problem. The DSG decides what it's going to do about 2 seconds before it actually does it. I sometimes get a nasty shifts because I nail it during the limbo time between when the DSG has decided to

⁸ https://www.carcomplaints.com/Audi/S5/2011/transmission/transmission_jerks.shtml

⁹ <https://www.audiworld.com/forums/s4-b8-platform-discussion-134/s-tronic-jerking-problem-2791637/page2/>

upshift and when it actually executes the upshift.¹⁰

- Complaint on 8/24/2010 on Audi World: to give you guys a little info if you encounter a gearbox malfunction notice. First off, my car was built in Oct '09 and has 14K miles on it. A couple of days ago I was pulling out of a parking lot and I hear a chime and get a "Gearbox malfunction, you can continue driving" notice in my display then it went away. It happened again about 4 hours later, but the car still felt normal. I took my car to the dealer the next day and found out my transmission was overheating, causing the light. But the tech didn't understand why the transmission was overheating. Of course I was asked, do I have any mods on the car or was I driving the car very hard up and down mountain roads when I got the malfunction. I told them no and they sent the downloaded information to Audi. The next day I was told Audi recommended replacing the mechatronic since the car is still under warranty. I currently live in Italy and was told it could take 3 weeks to get the part in. Needless to say I won't be driving the car much, even though there are no driveability issues. Kudos to Audi for wanting to make things right the first time...that mechatronic costs 1100 euros. Hopefully the wait won't be so long. I'll keep you guys posted.¹¹
- Complaint on November 30, 2011 for a 2011 S4 on Audi World: I have a 2011 S4 with an S-tronic transmission with a design problem. It was verified by my Audi dealer. If you wish to find out if your DSG/S-tronic transmission has the same design defect, check it out as follows: Put your transmission in manual mode. Under wide open throttle, accelerate through first gear and shift out of first gear at 6100 or higher (up to 7000 redline). Stay at wide open throttle in 2nd gear. If your car has the design defect, it will shift out of second gear on its own, between 4000 and 5000 rpm!! Obviously, this is not what Audi intended. I can take the car to redline in any other gear--just not 2nd. The defect is in the mechatronic unit, but replacing it only fixes the problem half the time. If you check this out, please post your finding as a reply to this thread. I've already run across three B8 S4's with this problem.¹²
- Complaint on November 30, 2011 for a 2011 S4 on Audi World: I can't verify as my car is in the body shop. However, I have noticed while in manual mode, I go to shift manually out of first and the car shifts at the same time and I then find myself in 3rd. Very annoying. What is more worrying is that if this is not the designed intent of the DSG why is there no clear fix. It almost makes M mode, dare I say worthless?¹³
- Complaint on December 20, 2011 for a 2011 S4 on Audi World: My car does the same

¹⁰ *Id.*

¹¹ <https://www.audiworld.com/forums/s4-b8-platform-discussion-134/s-tronic-owners-gearbox-malfunction-2789503/page2/-Just>

¹² <https://www.audiworld.com/forums/s4-b8-platform-discussion-134/new-b8-s4-s-tronic-design-defect-2817650/>

¹³ <https://www.audiworld.com/forums/s4-b8-platform-discussion-134/new-b8-s4-s-tronic-design-defect-2817650/page10/>

1 thing in 2nd gear. Very annoying. I've posted about it before. AoA said it was to protect
 2 the motor from extreme torque. I say that's bull crap. Please keep us posted on what they
 3 do for you. Good luck. And yes it's a \$55k car and it should work properly for that amount
 4 of dough.¹⁴

- 5 • Complaint on December 26, 2011 on Audi World: No need for apologies. I had/have a
 6 DSG issue and posted it on multiple Audi forums as well trying to get an answer for what
 7 I was experiencing.¹⁵
- 8 • Complaint on December 26, 2011 for a 2011 S4 on Audi World: Thanks for your input
 9 Northskate4. As I noted in an earlier post, Audi USA has offered me \$2000 towards a new
 10 vehicle. Of course, this isn't much of an offset, but, with current manufacturer to dealer
 11 rebates of \$2500 for the 2011 S4, combined with other dealer incentives, it's not bad. What
 12 I really want is for Audi to simply offer a DSG software reflash to solve this glitch. I'm
 13 hopeful that if enough of us Audi B8 S4 owners speak out about this problem in an open
 14 forum (and to our customer reps at Audi USA) Audi may be motivated to fix this issue. I
 15 doubt if there will ever be a recall, as this isn't a safety issue. But I still believe Audi will
 16 help those who have identified the problem to them. There is power in numbers.¹⁶
- 17 • Complaint on December 28, 2011 for a 2012 S4 on Audi World: Agreed...seems more like
 18 a software anomaly. My 2012 short shifts 1st and 2nd in manual mode but runs to redline
 19 in auto mode. I'm going to try again in a bit without pressing the kickdown button. Might
 20 be that manual mode + accelerator to floor incites this behavior.¹⁷
- 21 • Complaint on December 28, 2011 on Audi World: Whether in auto or manual mode, I am
 22 not able to shift under WOT. It goes straight to the red line and shifts automatically. I
 23 cannot shift at will at any point, ie early or late. I feel it defeats the purpose of the manual
 24 shift via paddles or shifter. I had an audi mechanic observe this in my car. Despite
 25 acknowledgement regarding my vehicle, his response was that it did not occur in the 2011
 26 he test drove the day after. I contacted Audi regarding this. I think they said it was a safety
 27 feature (reference to kickdown). I still struggle with that and haven't posted anything about
 28 it sense. I apologize if this is off-topic or if already discussed. I did post my issue a long
 time ago, however it appeared that few could relate. Has anyone else experienced this? I
 will support the group here complaining about the S-tronic if it will resolve my issue.¹⁸
- Complaint on December 29, 2011 on Audi World: Exactly we need to keep the pressure
 on. DSG is sold as a performance improvement with racing heritage. Right now we have a
 hobbled transmission that does not behave as advertised. The Audi company line of does
 not hold up. "Safety" overrides Coincidentally I received 2 letters in the mail yesterday

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

from a law firm over the High Pressure Fuel Pump issue on the BMW N54 engine (I owned 2 335i's). However, if we don't here something soon from Audi the law firm might be hearing from us.¹⁹

- Complaint on January 1, 2012 (maybe for a 2010 S4) on Audi World: None taken. I am not sure there was as much info at the time I bought. I purchased my car late 2009. I understand and can appreciate that you are trying to dispell there is a defect. I can also appreciate, defect or not, those highlighting certain apects of the s-tronic. This is useful for both owners and prospective buyers. It would have been for me.²⁰
- Complaint on January 7, 2012 for a 2011 S4 on Audi World: Round 1 with the dealer, who claims they can not get the transmission to up or downshift without hitting the paddle. They claim they could not even reproduce the kick down button downshift or the upshift at 6500rpm in 1st and 2nd gear I recorded and sent video of both the 6500rpm up and kick down shift and the early 2-3 shift. This weekend I hope to get video of the "random" shifting it does at times. Random in quotes because the more experiments I do the more I'm convinced these are reliability and safety nannies built into the software that are buggy when presented with stressful or less predictable inputs. They are a little harder to reproduce. BTW, these are not new transmissions nor is the desired behavior in performance situations any mystery. Sequential and semi-manual gearboxes have been around since the early 1900's. F1 first started racing with them in the early 70's. VAG in production since the late 60's. VAG was racing with them in the early 80's and offering them in production cars in the early 90's. I've personally been racing or doing track days with sequential gearboxes since 1989.²¹
- Complaint on January 17, 2012 for a 2011 S4 on Audi World: This is true. The dealer wrote me off. They said they couldn't duplicate the problem. Test drove for 30 min and used a 1/4 tank of my gas. I jumped in the car to take it home and it happened right away. I don't trust them now.²²
- Complaint on January 21, 2012 for a 2011 S4 on Audi World: I cant get the DSG to misbehave on que, especially when I am at service. But it definitely malfunctions at times in the lower gears or if I punch it at standstill which is when it happens the most. Vast majority of time it runs ok but when it craps out, its disturbing. Has anyone ever considered on filing with the Better Business Bureau on the DSG issues? I am considering it. If all of those who are unhappy with th DSG clunking out in the lower gears or any other issues it has had, maybe this is the best approach? I am taking my car into the shop this week. If they cant fix it then I am really considering asking for a buyback which I really dont want to do. BTW, I know someone who was telling me he had a VW wth a DSG and he had all kinds of issues. I dont know if its the same DSG system, just saying what he told me I

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

really like the S4 but I don't think AUDI is being honest and forthright with the DSG issues. But I do have another sedan in the family and if these issues continue, I would get rid of the S4 through a buyback request or some other means, sell the vette and look into a pre-owned 2010 911 Turbo PDK. Even a pre-owned is expensive but so far I have heard good things about the PDK. Anyone hear differently? BTW, thought about a 2010 AUDI R8 too until I read about the r-tronic issues. AUDI has so much potential, I think they are screwing it up a bit²³

Complaint on July 21, 2012 for a 2013 S4: So I traded my 2010 S4 a few weeks ago and got a 2013 S4. Driving home yesterday I get two alarms flashing on the dash. One for a transmission malfunction and the other is a TPMS malfunction. I could still drive the car but the shifts went from a few milliseconds to a couple seconds. The engine would rev to about 3K RPM then almost a complete loss of power while the RPM dropped to about 2K and the transmission would upshift. It was too late to bring the car to the dealership yesterday so I brought it in this morning. I start the car and get the TPMS malfunction alarm but no transmission alarm. The transmission seems fine on my way to the dealership but the check engine light stays on. The TPMS warning light ends up going off on my way to the dealership. Get a call a couple hours later and am told they don't know what the problem is and have to call the Audi Tech Line on Monday. Who's knows how this will turn out but with only a little over 500 miles on the car, I'm starting to think I should have stayed with the 6MT I had in my 2010. Stay tuned...²⁴

- Complaint on November 28, 2012 for a 2013 S4 on Audi World: I am brand new to this forum and wanted to say thank you -- you guys rock. I took delivery of my S4 last Sunday. I now have 500 miles on it. After ~200 miles I noticed a behavior that has been discussed in several B8 S4 threads -- hesitation, then jerky or jolting engagement of the transmission when stopping at an intersection and then trying to make a turn. Twice this happened with on-coming traffic when I figured I had plenty of time to safely enter -- a lag and nothing and then "wham!" like a guy slammed into me from behind. Scary and annoying and not an experience I expect from a \$50K automobile. After reading some of you guys' posts last night, I went to the dealership today armed for battle. I told them straight up I would not be able to reproduce this (it's very intermittent) but insisted they check it out. Service manager over phone (prior to my research here) had said he was not familiar with any issues with S4 (sales guy told me tons of similar issues with 8spd DSG on Q5 but not S4). When I showed up in person, I said "look, maybe you guys cringe when you hear this but I spent 3 hours on Audi forums last night and I know this is out there happening to some owners." Well, the service manager pulled in a tech he said is familiar with this and this guy laid out the exact steps I've seen in some threads from last night -- check for DSG s/w update (none available). Next step is to try adaptation (or is it adaption? - I think he said the latter), then check the mechatronics unit. He said they have some unofficial test of the mechatronics unit by easing it onto the alignment lift (I could be getting this part wrong) - - basically doing exactly what you do when you ease the car into the garage - and seeing if

²³ <https://www.audiworld.com/forums/s4-b8-platform-discussion-134/new-b8-s4-s-tronic-design-defect-2817650/page10/>

²⁴ <https://www.audiworld.com/forums/s4-b8-platform-discussion-134/dsg-problem-2830362/>

1 it is jerky or how many times it inches forward in a certain timeframe. I have to fly out to
 2 LA tomorrow for work, but they are taking the car for a couple days starting Monday to
 3 check all this out. The tech said they've had to replace mechatronics on at least 1 2013
 4 recently. Bottom line, I just wanted to say thanks to all you contributors on this forum
 5 because I thought I was nutz when I experienced this and my first reaction from Audi
 6 service, but felt better going over there armed with some information I learned here. I'll let
 7 you know how it goes.²⁵

- 8 • Complaint on November, 29, 2012 for a 2012 S4 on Audi World: I'm in the midst of
 9 fighting with AoA on this same issue with my '12. My car has 15k miles and it's just gotten
 10 worse over time. Just to confirm it's not me being overly sensitive, I drove a friend's '11
 11 with similar mileage and there was a distinct difference in the way the two cars drove. My
 12 car slipped the clutch MUCH more and his was much smoother than mine. My hypothesis
 13 is that either there is a higher than average number of Mechatronics units that are defective
 14 or that the software gets freaked out by some people's driving habits and gets inordinately
 15 jerky. Car is going in tomorrow for re-adaptation / 3rd examination. If that does not solve
 16 the problem, I'm heading for buyback. We shall see.²⁶

17 **Audi Did Not Disclose the Safety Defect to Plaintiffs, the Class, or Subclass Members.**

18 82. Despite Audi's knowledge of the defect present in Class Vehicles, Audi failed to disclose
 19 this unresolved safety defect to new and subsequent purchasers and lessees of Class Vehicles, and instead
 20 chose to omit conveying this information to buyers at the time they were considering purchasing Class
 21 Vehicles. Upon information and belief, Audi continues to manufacture and sell Class Vehicles equipped
 22 with the defective transmissions without any disclosure to consumers about these hidden safety defects.

23 83. Audi's TSBs concerning the transmission problems in Class Vehicles are not directly sent
 24 to purchasers and did not fully disclose the pervasiveness of the defect, the safety issues arising from the
 25 defect, or the uncertain nature of the prescribed fixes.

26 84. Plaintiffs, Class Members, and Subclass Members would not have purchased or leased
 27 their vehicles, or would have paid significantly less for them, had they known of the transmission defect
 28 or safety hazard at the point of sale. Plaintiffs, Class Members, and Subclass Members were denied
 information that was material to their purchase or lease and material to their willingness to use their Class
 Vehicles when Audi did not disclose the defect to them at the point of sale. Such information was material
 to a reasonable consumer in making a decision to purchase, lease, or use a Class Vehicle.

²⁵ <https://www.audiworld.com/forums/s4-b8-platform-discussion-134/2013-s4-dsg-jerky-2838215/>

²⁶ *Id.*

Audi's Express and Implied Warranties Cover Repairs and Replacements Associated with the Transmission Defect, But Audi Has Been Unable to Repair the Defect.

85. For each Class Vehicle sold by Audi, an express written warranty was issued which covered the vehicle, including but not limited to, the transmission system.

86. Audi provided all purchasers and lessees of the Class Vehicles with a New Vehicle Basic Limited Warranty. The Limited Warranty “begins on the date the vehicle is delivered to either the original purchaser or the original lessee; or if the vehicle is first placed in service as a demonstrator or company car, on the date such vehicle is first placed in service.”

87. Under its New Vehicle Basic Limited Warranty, Audi expressly warranted that: “Audi provides Limited New Vehicle Warranty coverage for your vehicle. The warranty duration is 4 years or 50,000 miles from your vehicle’s in-service date, whichever occurs first, and covers defects in manufacturer’s material and workmanship.” The express warranty provides that “The warranty covers repair or replacement to correct a defect in manufacturer’s material and workmanship. Your authorized Audi dealer will repair the defective part or replace it with a new or remanufactured Genuine Audi Part free of charge.”

88. Upon information and belief, when Audi has replaced its defective transmissions under warranty, it is replacing the transmissions with equally defective transmissions.

89. In addition, Audi sold or leased the Class Vehicles to the Plaintiffs, Class, and Subclass Members under an implied warranty of merchantability. Audi’s express warranty confirms that Audi offers implied warranties, including the implied warranty of merchantability, for the same duration as the express warranty. Audi impliedly warranted that the Class Vehicles were merchantable in that they were in a safe and non-defective condition for use by their owners or lessees for the ordinary purpose for which they were intended, and were not otherwise injurious. Audi is under a duty to design, construct, manufacture, inspect, and test the Class Vehicles so as to make them suitable for the ordinary purposes of their use—to safely transport the driver and any passengers during ordinary use.

90. Audi breached its warranties for the Class Vehicles when it designed, manufactured, and sold Class Vehicles with defects in the transmission system, and when it refused to or was unable to repair the defect in the transmission when the transmission failed under warranty. The Class Vehicles are

defective, unsafe, unfit for the ordinary purposes for which they are intended to be used, and therefore, not merchantable.

PLAINTIFFS' INDIVIDUAL ALLEGATIONS

91. Like all new or certified pre-owned Audi vehicles, Plaintiffs' Class Vehicles each came with Audi's New Vehicle Basic Limited Warranty. This warranty was a material factor in Plaintiffs' decisions to purchase their respective Class Vehicles.

92. At the time of Plaintiffs' purchases, Audi failed to disclose, concealed, and/or omitted divulging to Plaintiffs and other potential buyers its knowledge of consumer complaints, malfunctions, safety hazards, and material facts related to the Class Vehicles' defective transmission.

93. Before Plaintiffs purchased their respective Class Vehicles, Plaintiffs were never informed of, or aware of, the Class Vehicles' transmission failures. Plaintiffs were unaware of the TSBs that address the Class Vehicles' defect and recommend a complete Mechatronic replacement and other significant repairs to address the transmission defect.

94. Had Audi disclosed the transmission defect, Plaintiffs would not have purchased the Class Vehicles or would have paid significantly less for them. Plaintiffs were denied information material to their purchases and that would affect their willingness to drive the Class Vehicles. Instead, Plaintiffs relied upon Audi's express and implied warranties that the Class Vehicles were fit and safe for their ordinary purpose, merchantable, and were sold free from defects.

95. Plaintiffs used their Class Vehicles in a reasonable manner and followed maintenance recommendations.

Mike Madani Purchased A 2013 Audi S7 with the Undisclosed Transmission Defect.

96. On or about April 10, 2013, Plaintiff Madani purchased a new 2013 Audi S7 from Audi of Downtown L.A. in Los Angeles, California. Plaintiff Madani paid approximately \$100,000 for his Class Vehicle. Before and at the time of his purchase, the transmission defect was not disclosed to Plaintiff Madani. At the time of purchase, Plaintiff Madani's vehicle came with a 3-year or 36,000 mile warranty.

97. Audi Downtown L.A. was an adjoining link in the distribution chain from Audi to Plaintiff Madani. In addition, Plaintiff Madani is an intended third party beneficiary of the contract between Audi

1 of Downtown L.A. and Audi corporate regarding his Class Vehicle. Audi of Downtown L.A. was not the
2 intended end user or beneficiary of the Class Vehicle.

3 98. In approximately October 2017, with approximately 53,000 miles on his Class Vehicle,
4 Plaintiff Madani was driving his Class Vehicle when his vehicle started to buck and jerk when he
5 attempted to accelerate from a stopped position. He felt as though someone was crashing into him from
6 behind when attempting to shift his vehicle into gear. This bucking and jerking occurred repeatedly
7 throughout his entire trip with his vehicle. Plaintiff Madani sought an inspection of the class vehicle at
8 Pacific Tire Motorsports in Redondo Beach, California, by his regular mechanic.

9 99. On approximately October 15, 2017, Plaintiff Madani discussed the bucking and jerking
10 and the problems attempting to accelerate from a stopped position with his mechanic. His mechanic
11 mentioned that Audi issued a “bulletin or something regarding the transmission.” Plaintiff Madani’s
12 mechanic took the Class Vehicle to Audi Pacific in Torrance, California for answers.

13 100. At Audi Pacific, the service department updated the vehicle’s software and changed the
14 oil in the vehicle. Plaintiff Madani was charged \$420.00 for the software update.

15 101. Immediately after the software update, the vehicle resumed bucking and jerking when he
16 attempted to shift into gear from a stopped position. He took his vehicle to Pacific Tire for a second
17 inspection.

18 102. At Pacific Tire, his mechanic discovered the vehicle was “GOING INTO LIMP MODE
19 AFTER HARD 1-2 AND 2-3 TRANSMISSION SHIFTS,” so his mechanic performed a transmission
20 fluid service and filter replacement, then took the vehicle back to Audi Pacific for a second software
21 update. At Audi Pacific, due to “harsh shifts from 3-2 in sport mode TSB 2035049/2,” the Service
22 Department performed a TCM update on the vehicle.

23 103. Plaintiff Madani was charged \$1,042.96 by Pacific Tire for the work and was told that this
24 repair would not be covered under the vehicle’s New Vehicle Limited Warranty.

25 104. Today, Plaintiff Madani’s Class Vehicle still suffers from the transmission defect. His
26 vehicle’s transmission “kicks” during its use. Plaintiff Madani would not have purchased the vehicle had
27 he known of the transmission defect. He did not receive the benefit of his bargain.
28

Eric Walley Purchased A 2013 Audi S7 with the Undisclosed Transmission Defect.

105. On November 1, 2016, Plaintiff Walley purchased a used 2013 S7 from Empire Exotic Motors in Addison, Texas. Plaintiff Walley paid \$55,000 for his vehicle before taxes and the vehicle had approximately 46,000 miles on its odometer at the time of his purchase.

106. On November 1, 2017, with approximately 55,100 miles on his Class Vehicle, Plaintiff Walley attempted to put his vehicle in reverse, but the vehicle started to buck and jerk back and forth. The bucking and jerking of his Class Vehicle was so severe that he felt as though his vehicle was being bumped by another vehicle.

107. In addition, when shifting gears and starting to accelerate, Plaintiff Walley noticed his Class Vehicle would “jerk” between gears and not shift smoothly.

108. On November 1, 2017, Plaintiff Walley took his vehicle in for an inspection and repair at Audi Concord in Concord, California. There, service technicians told Plaintiff Walley that the issue with his vehicle was normal, and they could not recreate either the bucking or jerking issue or the jerk between gear shifts. The service technicians did not remedy the transmission defect.

109. The transmission defect, as described above, is still a problem for Plaintiff Walley. Plaintiff Walley would not have purchased the Class Vehicle had he known of the transmission defect. He did not receive the benefit of his bargain. His transmission has not been replaced or repaired under the New Vehicle Limited Warranty.

Richard DeVico Purchased A 2010 Audi S4 with the Undisclosed Transmission Defect.

110. On October 10, 2016, Plaintiff Richard DeVico purchased a used 2010 Audi S4 with approximately 44,000 miles on its odometer. He purchased the Class Vehicle for approximately \$27,900.00 from Habberstad BMW located in Huntington, New York.

111. Prior to purchasing the vehicle, Plaintiff DeVico reviewed a CarFax on his vehicle’s repair history. That CarFax report showed that his vehicle’s engine was replaced on February 6, 2014 with 28,579 miles on the odometer, and that on June 20, 2014, the vehicle’s transmission was replaced with 30,444 miles showing on the odometer.

112. Soon after his purchase of the Class Vehicle, Plaintiff DeVico was forced to replace the power steering pump. At that time, the vehicle had approximately 46,000 miles on the odometer.

1 113. Since his vehicle reached about 50,000 miles on the odometer, Plaintiff DeVico's
2 vehicle's transmission clunks when rolling to a stop, and it jolts forward when accelerating from a stop,
3 feeling as if the vehicle has been rear-ended. The dashboard a various times displays error warnings,
4 including "DSG Malfunction, you may continue to drive" and "reverse gear malfunction." At times, it
5 jumps gears (e.g., shifting from first to third gear or from second to fourth gear). Other times, it will not
6 go into reverse at all. This is extremely dangerous for Plaintiff DeVico as being unable to reverse leaves
7 him and his Class Vehicle vulnerable to getting stuck on rail tracks, unable to park in proper places, and
8 not being able to safely back out of parking spaces or at all.

9 114. Plaintiff DeVico's vehicle currently has approximately 60,000 miles on the odometer.
10 Because he cannot afford to make extensive repairs on his vehicle, he is unable to drive it. Plaintiff
11 DeVico would not have purchased the vehicle had he known of the transmission defect. He did not
12 receive the benefit of his bargain.

13 **Romsin Oushana Purchased A 2015 Audi S4 with the Undisclosed Transmission Defect.**

14 115. On April 1, 2016, Plaintiff Romsin Oushana purchased a Certified Pre-Owned 2015 Audi
15 S4 with approximately 7,000 miles on its odometer. He purchased the Class Vehicle for approximately
16 \$51,000.00 from Audi Sacramento located in Sacramento, California. When he purchased the Class
17 Vehicle, it came with an Audi Certified Pre-Owned Vehicle Warranty that extends his warranty coverage
18 through 6-years/100,000 miles. In addition, he purchased a supplemental warranty for his vehicle from
19 the Audi dealership.

20 116. Audi Sacramento was an adjoining link in the distribution chain from Audi to Plaintiff
21 Oushana. In addition, Plaintiff Oushana is a third party beneficiary of the contract between Audi of
22 Sacramento and Audi corporate regarding his Class Vehicle. Audi Sacramento was not the intended end
23 user or beneficiary of the Class Vehicle. Prior to purchasing the vehicle, Plaintiff Oushana spoke to the
24 Audi salesperson and others at the dealership about the Class Vehicle. No one at the dealership before or
25 during his purchase told him about the transmission defect or the TSBs that had already been released by
26 Audi about the defective transmission. Had Plaintiff Oushana been told of the known problems, he would
27 have purchased a different brand and/or model of car.
28

1 117. In approximately June 2017, Plaintiff Oushana began experiencing the juddering and
2 jerking of his Class Vehicle, primarily when he is traveling at slow or medium speeds. Sometimes when
3 the gas pedal is pushed, the vehicle will hesitate, jerk, then finally accelerate. Although the problem is
4 most obvious at lower speeds, it occurs at any speed. When Plaintiff Oushana tries to accelerate in
5 defensive driving situations where he needs to make a quick adjustment, his vehicle does not properly
6 accelerate and places him at risk for an accident, a serious safety concern.

7 118. Since he purchased his vehicle, all of its normal maintenance has been performed at an
8 Audi dealership. He has spoken to the Audi dealership frequently about how his vehicle is running and
9 about its reliability, in part because he has a long daily commute for work and must have safe and reliable
10 transportation. Despite certain maintenance being included in the Certified Pre-Owned Warranty, the
11 dealership has been difficult to deal with.

12 119. In addition to speaking to the Audi dealership, he has received advertising and mail from
13 Audi since his purchase, but at no time has Audi or the Audi dealership mentioned the known
14 transmission problem. His Class Vehicle has not been recalled for this defect.

15 120. Plaintiff Oushana's Class Vehicle currently has approximately 54,000 miles on the
16 odometer. Plaintiff Oushana would not have purchased the vehicle had he known of the transmission
17 defect. He did not receive the benefit of his bargain. He fears that his vehicle is worth significantly less
18 as a result of the transmission defect, and as a result, would have a severely diminished resale value.

19 **John Chess Purchased A 2010 Audi S4 with the Undisclosed Transmission Defect.**

20 121. On May 26, 2010, Plaintiff John Chess purchased a new 2010 Audi S4. He purchased the
21 Class Vehicle for approximately \$62,287.00 from Audi Livermore in Livermore, California. At the time
22 of purchase, Plaintiff Chess's vehicle came with a 3-year or 36,000 mile warranty, whichever came first.

23 122. Audi Livermore was an adjoining link in the distribution chain from Audi to Plaintiff
24 Chess. In addition, Plaintiff Chess is an intended third party beneficiary of any contract between Audi
25 Livermore and Audi corporate regarding his Class Vehicle. Audi Livermore was not the intended end
26 user or beneficiary of the Class Vehicle.

27 123. In approximately February 2011 with 7,988 miles on the Class Vehicle, Plaintiff Chess's
28 car was towed to the dealership because the water pump had failed and the car over heated. Plaintiff

1 Chess' wife called the dealership and complained to a member of the Audi Livermore staff, Johnny
2 Cheng, and told him that her vehicle had come to a rough stop and the transmission was not working
3 properly. Plaintiff Chess and his wife were told the vehicle was fine and there was no issue with the
4 transmission with a rough stop.

5 124. On March 21, 2017, with 54,079 miles on his Class Vehicle, Plaintiff Chess's vehicle was
6 taken to Audi Livermore for an inspection. There, Plaintiff Chess and his wife stated that the vehicle,
7 while at a stop, wants to jump forward and "buck." Audi Livermore performed an inspection and found
8 no faults in the system and could not replicate the problem. Plaintiff Chess and his wife were charged
9 \$160 for this work.

10 125. On June 5, 2018, with 60,745 miles on his Class Vehicle, Plaintiff Chess's vehicle was
11 taken to Audi Livermore for an inspection. There, Plaintiff Chess' wife stated the vehicle lurches and
12 shutters when coming to a stop and this issue also manifests when accelerating and shifting from first to
13 second gear. The technician noted during the visit "ROADTESTED WITH THE CUSTOMER AND
14 VERIFIED A BANGING FROM THE TRANSMISSION A SECOND AFTER COMING TO A STOP.
15 FEELS LIKE BEING REAR ENDED AT LOW SPEED. CHECKED AND TOPPED OFF FLUID
16 LEVEL. RESET TRANSMISSION ADAPTION. ROADTESTED, BANGING WHEN STOPPED
17 RETURNED AFTER 20 MILES. CONTACTED TECHNICAL ASSISTANCE AND WAS
18 PROVIDED WITH AN UPDATED SOFTWARE VERSION. CONNECTED CHARGER AND
19 PERFORMED SOFTWARE UPDATE VIA SVM. ROADTESTED AGAIN, BANGING IS
20 SIGNIFICANTLY REDUCED IN INTENSITY AND FREQUENCY. RECOMMEND
21 ROADTESTING WITH THE CUSTOMER TO VERFITY REPAIRS. TRANSMISSION NOW
22 OPERATES COMPRABLE TO SIMILAR VEHICLES." See the Audi Livermore Service Work Order,
23 attached as **Exhibit A**.

24 126. Plaintiff Chess's Class Vehicle currently has approximately 66,026 miles on the odometer.
25 Plaintiff Chess would not have purchased the vehicle had he known of the transmission defect. He did
26 not receive the benefit of his bargain. He fears that his vehicle is worth significantly less as a result of the
27 transmission defect, and as a result, would have a severely diminished resale value.

Michael Warchut Purchased A 2012 Audi S4 with the Undisclosed Transmission Defect.

127. On or about July 14, 2011, Plaintiff Michael Warchut purchased a new 2012 Audi S4. He purchased the Class Vehicle for approximately \$72,220.00 from Audi Concord in Concord, California. At the time of purchase, Plaintiff Warchut's vehicle came with a 3-year or 36,000 mile warranty, whichever came first.

128. Audi Concord was an adjoining link in the distribution chain from Audi to Plaintiff Warchut. In addition, Plaintiff Warchut is an intended third party beneficiary of any contract between Audi of Concord and Audi corporate regarding his Class Vehicle. Audi Concord was not the intended end user or beneficiary of the Class Vehicle.

129. Within a month of purchase, Plaintiff Warchut noticed his Class Vehicle would surge at low speeds and "buck" and "lurch" forward when parked. Further, when he was slowing down the vehicle's transmission would "judder" when shifting between second and first gear and "judder" when shifting between first and second gear.

130. On October 14, 2011, with only 4,865 miles on his Class Vehicle, Plaintiff Warchut took his Vehicle in for his first scheduled service inspection at Audi Concord. At the inspection, Plaintiff Warchut conveyed all of the aforementioned issues he had with the transmission of his Class Vehicle. According to the service notes, it states "CUSTOMER STATES THAT THE VEHICLE SURGES AT LOW SPEEDS. . . MAINLY HAPPENS IN PARING (sic) LOTS, SUPER SLOW SPPEDES [sic] & IT WILL SURGE. . . CUSTOMER STATES VEHICLE SURGES AT LOW SPEEDS. CHECK AND VERFITY, ROAD TEST VEHICLE NORMAL OPERATION AS DESIGN. CHECK TSB NO TSB FOUND. PERFORMED GFF NO DTCS RELATED TO COMPLAINT." Plaintiff Warchut was told that the issues he was experiencing were "an artifact of the design of the vehicle" and that his vehicle did not have a problem. Plaintiff Warchut was mystified and confused by this response given the experiences he had driving the Class Vehicle. Plaintiff Warchut did not receive a fix or anything from Audi Concord to remedy the transmission defect within his Class Vehicle. *See* Audi Concord Service Work Order, attached as **Exhibit B**.

131. On December 16, 2011, with 8,385 miles on his Class Vehicle, Plaintiff Warchut took his Class Vehicle in for an inspection at Audi Concord. There, Plaintiff mentioned that his Class Vehicle

1 would surge at low speeds and “buck” and “lurch” forward when parked. Further, when he was slowing
2 down the vehicle’s transmission would “judder” when shifting between second and first gear and
3 “judder” when shifting between first and second gear. Again, Plaintiff Warchut was told that there was
4 no software updates or fix that could be done for these issues with his Class Vehicle.

5 132. On April 25, 2012, with 14,615 miles on his Class Vehicle, Plaintiff Warchut took his
6 Class Vehicle in for an inspection at Audi Concord. There, There, Plaintiff mentioned that his Class
7 Vehicle would surge at low speeds and “buck” and “lurch” forward when parked. Further, when he was
8 slowing down the vehicle’s transmission would “judder” when shifting between second and first gear
9 and “judder” when shifting between first and second gear. Again, Plaintiff Warchut was told that there
10 was no software updates or fix that could be done for these issues with his Class Vehicle.

11 133. On July 12, 2018, with approximately 99,036 miles on his Class Vehicle, Plaintiff
12 Warchut was driving his Class Vehicle when suddenly and without warning, the Class Vehicle’s
13 transmission went into “limp mode” and the Class Vehicle would not accelerate over 20 miles per hour.
14 Plaintiff Warchut was able to drive his Class Vehicle slowly home.

15 134. Thereafter, Plaintiff Warchut called Audi Concord about receiving an estimate for a
16 replacement of the transmission within his Class Vehicle he had had so many issues with. Thereafter,
17 Plaintiff was informed since his Class Vehicle was out of warranty, it would be approximately \$13,000
18 for a replacement of that transmission with parts and labor. Plaintiff Warchut found this response
19 unsatisfactory given the litany of complaints he made to Audi Concord within the Class Vehicle’s
20 powertrain warranty period.

21 135. Thereafter, in August 2018, Plaintiff contracted with a local non-Audi mechanic who
22 agreed to fix the transmission with his Class Vehicle for \$1,400. Plaintiff Warchut had the vehicle towed
23 to his shop in the Bay Area. Plaintiff Warchut’s Class Vehicle was in the shop undergoing the fix for
24 approximately three weeks.

25 136. Plaintiff Warchut’s Class Vehicle currently has 106,581 miles on the odometer. Plaintiff
26 Warchut would not have purchased the vehicle had he known of the transmission defect. He did not
27 receive the benefit of his bargain. He fears that his vehicle is worth significantly less as a result of the
28 transmission defect, and as a result, would have a severely diminished resale value.

CLASS ACTION ALLEGATIONS

137. Pursuant to Rules 23(b)(2), and/or 23(b)(3) of the Federal Rules of Civil Procedure, Plaintiffs will seek certification of a nationwide class defined as follows:

All persons who own or lease a Class Vehicle (i.e., 2010 - 2015 Audi S4; 2010-2015 Audi S5; 2010-2015 Audi S6; 2010-2015 Audi S7; or 2010-2015 Audi RS5) with a DSG transmission in the United States (the “Class”).

138. Plaintiffs also seek certification of a California Subclass defined as follows:

All persons who own or lease a Class Vehicle (i.e., 2010 - 2015 Audi S4; 2010-2015 Audi S5; 2010-2015 Audi S6; 2010-2015 Audi S7; or 2010-2015 Audi RS5) with a DSG transmission and who purchased the vehicle in and/or reside in California.

139. Plaintiffs reserve the right to amend or change their class definitions prior to class certification as necessary to conform with the facts as clarified through discovery and litigation.

140. The Class and Subclass definitions specifically exclude:

- a. all persons who assert personal injury claims arising from or relating to the transmission failures in their Class Vehicle(s);
- b. all persons who have had their Class Vehicle re-purchased or “bought back” by Audi (whether the buy-back was required by law or was solely pursuant to agreement);
- c. any persons or other entity currently employed by or affiliated with Defendant;
- d. any person, firm, trust, corporation, or other entity who purchased a Class Vehicle from Defendant strictly for resale;
- e. any Judge presiding over this action; and
- f. all persons who properly execute and file a timely request for exclusion from the Class.

141. Numerosity: the Class and Subclass are comprised of tens of thousands of Audi owners throughout the United States, making joinder impractical. Moreover, the Class and Subclass are composed of an easily ascertainable, self-identifying set of individuals and entities who purchased Class Vehicles. The members of the Class and Subclass are so numerous that joinder of all members is impracticable. The precise number of Class and Subclass Members can be ascertained only through discovery, which includes Defendant’s sales, service, and complaint records. The disposition of their

claims through a class action will benefit both the parties and this Court. Furthermore, Members of the Class and Subclass may be identified from records maintained by Audi and its agents, and may be notified of the pendency of this action by mail, or other appropriate means, using a form of notice customarily used in consumer class actions.

142. Commonality: The critical questions of law and fact common to the Class and Subclass that will materially advance the litigation include, but are not limited to, the following:

- a. Whether the transmissions installed by Defendant in the Class Vehicles were defective;
- b. Whether Defendant knew about the defective transmissions in Class Vehicles when they sold the Class Vehicles;
- c. Whether the transmission defect constitutes a breach of the implied warranty of merchantability;
- d. Whether refusing or failing to repair the transmission defect constitutes a breach of the express warranty;
- e. Whether the Defendant's concealment of and/or failure to disclose the defect in Class Vehicles constitutes unfair or deceptive acts or practices in violation of state consumer protection statutes;
- f. Whether information about the defect was material to a reasonable consumer in making a decision to purchase, lease, or use Class Vehicles;
- g. Whether Audi's express warranty has failed its essential purpose;
- h. Whether members of the Class and Subclass are entitled to be notified and warned about the transmission defect and are entitled to the entry of final and injunctive relief compelling Defendant to issue a notification and warning to all Class and Subclass Members concerning such a defect;
- i. Whether Defendant deliberately misrepresented or failed to disclose or concealed material facts to Plaintiffs and the Class and Subclass Members;
- j. Whether Audi's repairs to its transmissions are effective;

- k. Whether Audi replaces its defective transmissions with equally defective transmissions;
- l. Whether Audi acted or refused to act on grounds generally applicable to the Class and/or Subclass, thereby making the award of equitable relief and/or restitution appropriate to the Class as a whole;
- m. Whether Plaintiffs and Class and Subclass Members would have purchased their Class Vehicles, or whether they would have paid a lower price for them, had they known of the transmission failures;
- n. Whether Plaintiffs and Class and Subclass Members are entitled to actual damages; and
- o. Whether Plaintiffs and the Class and Subclass are entitled to restitution and/or disgorgement.

143. Typicality: Plaintiffs' claims are typical of the claims of the members of the Class and Subclass, as all such claims arise out of Defendant's conduct in designing, manufacturing, warranting, and selling the Class Vehicles with the same transmission defect.

144. Adequate Representation: Plaintiffs will fairly and adequately protect the interests of the Class Members and have no interests antagonistic to those of the Class. Plaintiffs have retained counsel experienced in the prosecution of complex class actions including, but not limited to, consumer class actions involving, inter alia, breach of warranties, product liability, and product design defects.

145. Predominance: This class action is appropriate for certification because questions of law and fact common to Class and Subclass Members predominate over questions affecting only individual members.

146. Superiority: A class action is superior to other available methods for the fair and efficient adjudication of this controversy, since individual joinder of all Class and Subclass Members is impracticable. Should individual Class and Subclass Members be required to bring separate actions, this Court would be confronted with a multiplicity of lawsuits burdening the court system while also creating the risk of inconsistent rulings and contradictory judgments. In contrast to proceeding on a case-by-case basis, in which inconsistent results will magnify the delay and expense to all parties and the court system,

1 this class action presents far fewer management difficulties while providing unitary adjudication,
2 economies of scale and comprehensive supervision by a single court. Because the damages suffered by
3 each Class and Subclass Member are relatively small compared to the expense and burden of prosecuting
4 this compelling case against a well-financed, multibillion-dollar corporation, this class action is the best
5 avenue for each Class and Subclass Member to redress the harm that Audi caused.

6 147. This lawsuit is maintainable as a class action under Federal Rule of Civil Procedure
7 23(b)(2) because Defendant has acted or refused to act on grounds that are generally applicable to the
8 Class and Subclass Members, thereby making final injunctive relief appropriate with respect to the Class
9 and Subclass.

10 148. This lawsuit is maintainable as a class action under Federal Rule of Civil Procedure
11 23(b)(3) because the questions of law and fact common to the members of the Class and Subclass
12 predominate over any questions that affect only individual Members, and because the class action
13 mechanism is superior to other available methods for the fair and efficient adjudication of the
14 controversy.

15 **TOLLING OF STATUTES OF LIMITATIONS**

16 149. Discovery Rule. Plaintiffs' claims accrued upon discovery that the transmission system
17 that Audi designed, manufactured, and installed into the Class Vehicles suffered from transmission
18 failures, and that the transmission failures could not be repaired. While Audi knew and omitted the fact
19 that the transmissions suffer from a defect that causes failures, Plaintiffs, Class Members, and Subclass
20 Members could not and did not discover this fact through reasonable diligent investigation until after
21 they experienced failures and reasonably excluded other potential causes of the failures.

22 150. Active Concealment Tolling. Any statutes of limitations are tolled by Audi's knowing and
23 active concealment of the fact that the transmission suffered from a defect. Audi kept Plaintiffs and all
24 Class and Subclass Members ignorant of vital information essential to the pursuit of their claims, without
25 any fault or lack of diligence on the part of Plaintiffs. The details of Audi's efforts to conceal its above-
26 described unlawful conduct are in its possession, custody, and control, to the exclusion of Plaintiffs and
27 the Class and Subclass Members. Plaintiffs could not reasonably have discovered the fact that the
28 transmissions suffered from a defect that would cause repeated and significant failures.

151. Estoppel. Audi was and is under a continuous duty to disclose to Plaintiffs, as well as Class and Subclass Members, the true character, quality, and nature of the transmissions. At all relevant times, and continuing to this day, Audi knowingly, affirmatively, and actively misrepresented and omitted the true character, quality, and nature of the transmissions. The details of Audi's efforts to conceal its above-described unlawful conduct are in its possession, custody, and control, to the exclusion of Plaintiffs and Class and Subclass Members. Plaintiffs and Class and Subclass Members reasonably relied upon Audi's knowing and/or active omissions. Based on the foregoing, Audi is estopped from relying upon any statutes of limitation in defense of this action.

152. Equitable Tolling. Audi took active steps to omit the fact that it wrongfully, improperly, illegally, and repeatedly manufactured, marketed, distributed, sold, and/or leased the Class Vehicles with the defective transmissions. The details of Audi's efforts to conceal its above-described unlawful conduct are in its possession, custody, and control, to the exclusion of the Plaintiffs and Class and Subclass Members. When Plaintiffs learned about this material information, they exercised due diligence by thoroughly investigating the situation, retaining counsel, and pursuing their claims. Audi wrongfully omitted its deceitful acts described above. Should it be necessary, therefore, all applicable statutes of limitation are tolled under the doctrine of equitable tolling.

FIRST CLAIM FOR RELIEF

Breach of Express Warranty

(On behalf of Plaintiffs, the Class, and, in the alternative, the California Subclass)

153. Plaintiffs, individually and on behalf of the Class, and, in the alternative, for the California Subclass, hereby incorporate each and every allegation from Paragraphs 1 through 152 as though fully set forth herein.

154. Each Class Vehicle sold by Audi included an express New Vehicle Limited Warranty that covered, in part, the transmission and warranted that it would repair or replace any defects in materials and workmanship in the Class Vehicles through 48-months or 50,000 miles. In addition, through its Certified Pre-Owned Vehicle program, Audi extends its warranty up to 72-months or 100,000 miles.

155. Audi provided all purchasers and lessees of new Class Vehicles with a New Vehicle Limited Warranty, which is transferrable with the sale of the vehicle. The Express New Vehicle Limited Warranty states “Audi provides Limited New Vehicle Warranty coverage for your vehicle. The warranty

1 duration is 4 years or 50,000 miles from your vehicle's in-service date, whichever occurs first, and covers
2 defects in manufacturer's material and workmanship." Further, the express warranty further provides that
3 "The warranty covers repair or replacement to correct a defect in manufacturer's material and
4 workmanship. Your authorized Audi dealer will repair the defective part or replace it with a new or
5 remanufactured Genuine Audi Part free of charge."

6 156. The DSG transmissions of the Class Vehicles were defective at the point of sale, and when
7 replaced under warranty, upon information and belief, are equally defective.

8 157. Audi knowingly and actively concealed and conceals that its DSG transmission suffers
9 from a defect from Plaintiffs, the Class, and the public. Despite its knowledge of the DSG transmission
10 defect, Audi continues to manufacture, advertise, distribute, and sell the Class Vehicles without
11 disclosing the safety problems that prevent the Class Vehicles from properly changing gears,
12 accelerating, or driving smoothly.

13 158. The details of Audi's efforts to conceal its above-described unlawful conduct are in its
14 possession, custody, and control, to the exclusion of Plaintiffs and the Class and Subclass Members.
15 Plaintiffs could not reasonably have discovered the fact that the transmissions suffered from a defect at
16 the point of purchase.

17 159. Further, Audi warranted that the Class Vehicles are "safe" and "reliable" while failing to
18 disclose to Plaintiffs and Class Members any hint of the risks posed by the transmission defect, which
19 renders the Class Vehicles dangerous and unreliable.

20 160. Plaintiffs gave notice to Audi of their vehicles' defect through its dealers and agents and
21 through its customer service division. Audi was also on notice of the defect by virtue of the NHTSA and
22 other website complaints as set forth herein, as well as its internal investigation of the defect in Class
23 Vehicles that, upon information and belief, began as early as 2010.

24 161. Audi breached its warranties by offering for sale and selling defective vehicles that were
25 defective and unsafe from the point of sale, and by refusing to recognize or permanently repair the defect,
26 thereby subjecting the occupants of the Class Vehicles purchased or leased to damages, risks of loss and
27 injury.

warranty of merchantability by selling or leasing Class Vehicles to Plaintiffs, the Class, and Members of the California Subclass.

169. As a direct and proximate result of Audi's breach of the implied warranty of merchantability, Plaintiffs, the Class, and members of the California Subclass suffered damages in excess of \$5,000,000.

170. Plaintiffs and the Class, or alternatively the California Subclass, seek full compensatory damages allowable by law, the diminished value of the Class Vehicles, the repair or replacement of all Class Vehicles, the refund of money paid to own or lease all Class Vehicles, and punitive damages, and appropriate equitable relief including injunctive relief, restitution, a declaratory judgment, and a court order enjoining Audi's wrongful acts and practices and any other relief to which Plaintiffs and the Class or, alternatively, the California Subclass, may be entitled, including attorneys' fees and costs.

THIRD CLAIM FOR RELIEF

Violation of the Magnuson-Moss Warranty Act

15 U.S.C. § 2301, *et seq.*

(On behalf of Plaintiffs, the Class and, in the alternative, the California Subclass)

171. Plaintiffs, individually and for the Class and, in the alternative, the California Subclass, hereby incorporate every allegation from Paragraphs 1 through 152 as though fully set forth herein.

172. Plaintiffs, the Class, and Subclass Members are "consumers" within the meaning of the Magnuson-Moss Act, 15 U.S.C. § 2301(3).

173. Audi is a "supplier" and "warrantor" within the meaning of the Magnuson-Moss Act, 15 U.S.C. § 2301(4) and (5).

174. The Class Vehicles at issue are "consumer products" within the meaning of the Magnuson-Moss Act, 15 U.S.C. § 2301(6).

175. For each Class Vehicle, Audi issued an express New Vehicle Limited Warranty that covered the vehicle, including but not limited to the transmission, and which warranted that Audi would repair or replace any part that is defective in material or workmanship under normal use.

176. Further, Audi warranted that the Class Vehicles are "safe" and "reliable" while failing to disclose to Plaintiffs and Class Members any hint of the risks posed by the transmission defect, which renders the Class Vehicles dangerous and unreliable.

1 184. Plaintiffs and the California Subclass Members are “buyers” within the meaning of the
2 Song-Beverly Consumer Warranty Act, California Civil Code § 1791(a).

3 185. Audi is a “manufacturer” within the meaning of the Song-Beverly Consumer Warranty
4 Act, California Civil Code § 1791(j).

5 186. The Class Vehicles at issue are “consumer goods” within the meaning of the Song-Beverly
6 Consumer Warranty Act, California Civil Code § 1791(a).

7 187. The New Vehicle Limited Warranty is an “express warranty” within the meaning of the
8 Song-Beverly Consumer Warranty Act, California Civil Code § 1791.2.

9 188. At all relevant times, Audi manufactured, distributed, warranted, and/or sold the Class
10 Vehicles. Audi knew or had reason to know of the specific use for which the Class Vehicles were
11 purchased or leased.

12 189. Audi provided an implied warranty to Plaintiffs and California Subclass Members
13 warranting that the Class Vehicles, including the component parts, are merchantable and fit for the
14 ordinary purposes for which they were sold. However, inter alia, the transmissions in the Class Vehicles
15 suffer from an inherent defect at the time of sale and, thereafter, are not fit for their ordinary purpose of
16 providing reasonably safe and reliable transportation.

17 190. Audi impliedly warranted that the Class Vehicles are of merchantable quality and fit for
18 such use. The implied warranty includes, among other things: (i) a warranty that the Class Vehicles
19 manufactured, supplied, distributed, and/or sold by Audi are safe and reliable for providing
20 transportation; and (ii) a warranty that the Class Vehicles are fit for their intended use.

21 191. Contrary to the applicable implied warranties, the Class Vehicles, at the time of sale and
22 thereafter, were not fit for their ordinary and intended purpose of providing Plaintiffs and California
23 Subclass Members with reliable, durable, and safe transportation. Instead, the transmissions in Class
24 Vehicles are defective and suffer from transmission failures that compromise the reliability, durability,
25 and safety of Class Vehicles.

26 192. As a result of Audi’s breach of the applicable implied warranties, owners and/or lessees
27 of the Class Vehicles have suffered an ascertainable loss of money, property, and/or value of their Class
28 Vehicles. Additionally, as a result of the transmission defect, Plaintiffs and California Subclass Members

were harmed and suffered actual damages in that the Class Vehicles' transmissions are substantially certain to fail or have failed before their expected useful life has run. The transmission failures create a high risk of accidents, injuries, and even death.

193. Audi's actions, as complained of herein, breached the implied warranty that the Class Vehicles were of merchantable quality and fit for such use, in violation of California Civil Code §§ 1792 and 1791.1, et seq.

194. Plaintiffs and the California Subclass seek full compensatory damages allowable by law, the diminished value of the Class Vehicles, the repair or replacement of all Class Vehicles, the refund of money paid to own or lease all Class Vehicles, and any other relief to which Plaintiffs and the California Subclass may be entitled, including attorneys' fees and costs.

FIFTH CLAIM FOR RELIEF

Violation of the California Consumers Legal Remedies Act ("CLRA")

Cal. Civ. Code § 1750, et seq.

(On behalf of Plaintiffs and the California Subclass)

195. Plaintiffs, individually and for the California Subclass, hereby incorporate each and every allegation from Paragraphs 1 through 152 as though fully set forth herein.

196. Audi is a "person" within the meaning of Civil Code §§ 1761(c) and 1770, and has provided "goods" within the meaning of Civil Code §§ 1761(b) and 1770.

197. Plaintiff and members of the proposed California Subclass are "consumers" within the meaning of Civil Code §§ 1761(d) and 1770, and have engaged in a "transaction" within the meaning of Civil Code §§ 1761(e) and 1770.

198. Audi's acts and practices, which were intended to result and which did result in the sale of Class Vehicles with defective transmissions, violate § 1770 of the Consumers Legal Remedies Act for at least the following reasons:

- a. Audi represents that its vehicles and transmissions had characteristics, uses, or benefits which they do not have;
- b. Audi advertises its goods with intent not to sell them as advertised;
- c. Audi represents that its vehicles and transmissions are of a particular standard, quality, or grade when they are not;

- 1 d. Audi represents that a transaction conferred or involved rights, remedies, or obligations
2 which they do not; and
- 3 e. Audi represents that its goods have been supplied in accordance with a previous
4 representation when they have not.
- 5 f. Audi knew but concealed that transmission defect be obvious to the consumer until
6 after warranty coverage expired and that many of the defective transmissions would fail
7 prematurely, but outside the warranty period.

8 199. Audi's practices, acts, policies, and course of conduct, including its omissions as
9 described above, were intended to induce, and did induce, Plaintiffs and members of the California
10 Subclass to purchase or lease the Class Vehicles with defective transmissions.

11 200. Audi sold and/or leased the Class Vehicles knowingly concealing that they contained the
12 defects alleged. This is due in part to the extensive NHSTA customer complaints, and complaints from
13 other sites that put Audi on notice about the Transmission Defect, or should have put Audi on notice of
14 the Transmission Defect, the recall of certain Volkswagen and Audi Vehicles in 2009 regarding the
15 DSG/S-Tronic transmissions that exhibited the same issues and safety defects as suffered by Plaintiffs
16 and Class Members, the NHSTA investigation into the DSG issues in 2009 that noted the same
17 transmission issues and safety defect suffered by Plaintiffs and Class Members.

18 201. Had Audi adequately disclosed the defect, Plaintiffs, members of the proposed Class, and
19 reasonable consumers would not have purchased or would have paid less for their vehicles with the
20 defective transmissions. Furthermore, Audi charges for repairs of Plaintiffs' and class members'
21 transmissions without disclosing that the problem is widespread and that the repairs do not address the
22 root cause of the defect.

23 202. Audi's acts are and were deceptive acts or practices which are and/or were, likely to
24 mislead a reasonable consumer purchasing the Class Vehicles.

25 203. Pursuant to the provisions of Cal. Civ. Code § 1782(a), Plaintiffs have or will send notice
26 letters to Audi to provide them with the opportunity to correct their business practices. If Audi does not
27 thereafter correct its business practices, Plaintiffs will amend (or seek leave to amend) the complaint to
28

add claims for monetary relief, including restitution and actual damages under the Consumers Legal Remedies Act.

SIXTH CLAIM FOR RELIEF

Violation of the California Unfair Competition Law (“UCL”)

Cal. Bus. & Prof. Code § 17200, *et seq.*

(On behalf of Plaintiffs and the California Subclass)

204. Plaintiffs, individually and for the California Subclass, hereby incorporate each and every allegation from Paragraphs 1 through 152 as though fully set forth herein.

205. California Business & Professions Code § 17200, *et seq.* (“UCL”) prohibits acts of “unfair competition,” including any “unlawful, unfair or fraudulent business act or practice” and “unfair, deceptive, untrue or misleading advertising.”

206. Plaintiffs and members of the California Subclass are reasonable consumers who do not expect their Class Vehicles to suffer from a variety of transmission defects that include but are not limited to, bucking, jerking, failure to properly accelerate, and failure to transition smoothly or correctly from one gear to another.

207. Further, Audi advertised the Class vehicles as “safe” and “reliable” while failing to disclose to Plaintiff and Class Members any hint of the risks posed by the transmission defect-which is dangerously unreliable and present at the point of sale.

208. Audi knew the Class Vehicles suffered from inherent defects, were defectively designed or manufactured, would fail to operate as intended, and were not suitable for their intended use.

209. In failing to disclose the transmission defect, Audi knowingly and intentionally concealed material facts and breached its duty not to do so.

210. By their conduct, Audi has engaged in unfair competition and unlawful, unfair, and fraudulent business practices.

211. Audi had a duty to Plaintiff and members of the California Subclass to disclose the defective nature of the Class Vehicles because:

- a. Audi was in a superior position to know the true facts about the Class Vehicles’ safety defect;

b. Audi made partial disclosures about the quality of the Class Vehicles without revealing the defective nature of the Class Vehicles; and

c. Audi actively concealed the defective nature of the Class Vehicles from Plaintiffs and members of the California Subclass.

212. The facts regarding the transmission defect that Audi concealed from or failed to disclose to Plaintiffs and members of the California Subclass are material in that a reasonable person would have considered them to be important when deciding whether to purchase or lease Class Vehicles. Had Plaintiffs and members of the California Subclass known that the Class Vehicles were defective and posed a safety hazard, they would not have purchased or leased Class Vehicles, or would have paid less for them.

213. Audi continues to conceal the defective nature of the Class Vehicles, even after members of the California Subclass and other consumers have reported problems.

214. Audi's conduct was and is likely to deceive consumers. Audi's unfair or deceptive acts or practices occurred repeatedly in Audi's trade or business, and were capable of deceiving a substantial portion of the purchasing public. Audi's acts, conduct, and practices were unlawful in California, in that they constituted:

a. Violations of the CLRA;

b. Violations of the Song-Beverly Consumer Warranty Act; and

c. Breaches of the express and implied warranties in violation of California and federal law.

215. As a result of their reliance on Audi's omissions and/or misrepresentations, owners and/or lessees of the Class Vehicles suffered an ascertainable loss of money, property, and/or value of their Class Vehicles. Additionally, as a result of the transmission defect, Plaintiffs and members of the California Subclass were harmed and suffered actual damages in that the Class Vehicles' are worth less than they would be if they were not prone to the transmission defect.

216. As a direct and proximate result of Audi's unfair and deceptive practices, Plaintiffs and members of the California Subclass have suffered and will continue to suffer actual damages.

217. Audi has been unjustly enriched and should be required to make restitution to Plaintiffs and the California Subclass pursuant to §§ 17203 and 17204 of the California Business & Professions Code.

218. Plaintiff and the California Subclass seek all remedies available pursuant to § 17070, *et seq.*, of the California Business & Professions Code, including: full restitutionary damages allowable by law; the diminished value of the Class Vehicles; the repair or replacement of all Class Vehicles; the refund of money paid to own or lease all Class Vehicles, and appropriate equitable relief, including injunctive relief, restitution, and a declaratory judgment; a court order enjoining Audi's wrongful acts and practices; and any other relief to which Plaintiffs and the California Subclass may be entitled, including attorneys' fees and costs.

SEVENTH CLAIM FOR RELIEF

Violation of the Declaratory Judgment Act

28 U.S.C. § 2201, *et seq.*, and Fed. R. Civ. P. 57

(On behalf of Plaintiffs, the Class, and, in the alternative, the California Subclass)

219. Plaintiffs, individually, and for the Class and, in the alternative, the California Subclass, hereby incorporate each and every allegation from Paragraphs 1 through 152 as though fully set forth herein.

220. Declaratory relief is intended to minimize "the danger of avoidable loss and unnecessary accrual of damages." 10B Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, Federal Practice and Procedure § 2751 (3d ed. 1998).

221. There is an actual controversy between Audi and Plaintiffs concerning whether the Class Vehicles' transmission defect creates an unreasonable safety hazard. Pursuant to 28 U.S.C. § 2201, the Court may "declare the rights and legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought."

222. Despite long knowing the nature of the Class Vehicles' defect and its likelihood of placing Plaintiffs, the Class, California Subclass, and the public at risk of grave injury, Audi refuses to publicly acknowledge that the Class Vehicles contain a dangerous defect. Instead, Audi has not advised its consumers and other members of the public of the defect. Audi has uniformly refused to permanently repair the defect and, upon information and belief, does not always cover the defect under the warranty.

223. Accordingly, based on Audi's failure to act, Plaintiffs seek a declaration that the Class Vehicles are defective, as alleged herein, covered under the New Vehicle Limited Warranty has failed of its essential purpose because Audi cannot repair or replace the defective transmissions. The defective nature of the Class Vehicles is material and requires disclosure to all persons who own them.

224. The declaratory relief requested herein will generate common answers that will settle the controversy related to the alleged defective nature of the Class Vehicles and the reasons for their repeated failure. There is an economy to resolving these issues as they have the potential to eliminate the need for continued and repeated litigation.

EIGHTH CLAIM FOR RELIEF

Unjust Enrichment, pleaded in the alternative

(On behalf of Plaintiffs, the Class, and, in the alternative, the California Subclass)

225. Plaintiffs, individually, and for the Class and, in the alternative, the California Subclass, hereby incorporate each and every allegation from Paragraphs 1 through 152 as though fully set forth herein.

226. Audi knew or should have known that Plaintiffs, the Class, and the California Subclass paid for the Class Vehicles with the expectation that they would perform as represented.

227. Plaintiffs, the Class, and the California Subclass conferred substantial benefits on Audi by purchasing the defective Class Vehicles. Audi knowingly and willingly accepted and enjoyed those benefits.

228. Audi's retention of these benefits is inequitable.

229. As a direct and proximate cause of Audi's unjust enrichment, Plaintiffs, the Class or, in the alternative, the California Subclass, are entitled to an accounting, restitution, attorneys' fees, costs and interest.

EQUITABLE INJUNCTIVE AND DECLARATORY RELIEF

(On behalf of Plaintiffs, the Class and, in the alternative, the California Subclass)

230. Plaintiffs, individually, and for the Class and, in the alternative, the California Subclass, hereby incorporate each and every allegation from Paragraphs 1 through 152 as though fully set forth herein.

1 231. Audi is under a continuing duty to inform its customers of the nature and existence of
2 potential defects in the vehicles it sells.

3 232. Audi acted uniformly towards Plaintiffs, the Class, and Members of the California
4 Subclass by refusing to adequately warn about the dangers of the transmission defect or offer a permanent
5 repair of the defect.

6 233. Plaintiffs, the Class, members of the California Subclass, and the public will suffer
7 irreparable harm if Audi is not ordered to properly repair all of the Class Vehicles immediately, offer
8 rescission to Plaintiffs, the Class, and the California Subclass by repurchasing their Class Vehicles for
9 their full cost and reimbursing the lessees of the Class Vehicles the monies they have paid toward their
10 leases, recalling all defective vehicles that are equipped with the defective transmissions, and ceasing and
11 desisting from marketing, advertising, selling, and leasing the Class Vehicles.

12 234. Such irreparable harm includes, but is not limited to, likely injuries as a result of the
13 transmission defects to the Class Vehicles.

14 235. Based on the facts alleged herein, and the conduct of Audi in failing to disclose, address,
15 or resolve the problems with the Class Vehicles, Plaintiffs and the Class, or alternatively the California
16 Subclass, seek appropriate equitable relief, including injunctive relief, a declaratory judgment, a court
17 order enjoining Audi's wrongful acts and practices, the repair or replacement of all Class Vehicles, the
18 refund of money paid to own or lease all Class Vehicles, and any other relief to which they may be
19 entitled.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiffs, individually and on behalf of all others similarly situated, pray for a
22 judgment against Defendant as follows:

- 23 A. For an order certifying the Class and/or Subclass, appointing Plaintiffs as the
24 representatives of the Class and each Subclass, and appointing the law firms
25 representing Plaintiffs as counsel for the Class;
- 26 B. For a declaration that the transmissions in Class Vehicles are defective, the remedial
27 work necessary to correct the defective transmissions is covered by the New Vehicle
28 Limited Warranty, the New Vehicle Limited Warranty fails of its essential purpose,

and that applicable statutes of limitations are tolled based upon Defendant's knowing concealment of the defect;

C. For other such injunctive, declaratory, and equitable relief as is warranted by the facts and law;

D. For compensatory damages and/or restitution or refund of all funds acquired by Defendant from Plaintiffs as a result of Defendant's unlawful, unfair, deceptive, and unconscionable practices described herein and in the consumer protection statute of California, including actual, statutory, and/or trebled damages to the extent permitted by law in an amount to be proven at trial;

E. Trebling of damages suffered by the Class and/or Subclass;

F. Payment of costs and expenses of suit herein incurred;

G. Both pre-and post-judgment interest on any amounts awarded;

H. Payment of reasonable attorneys' fees and expert fees;

I. An order requiring Defendant to repair or replace the transmissions in the Class Vehicles.

J. Punitive damages where available; and

K. Such other and further relief as the Court may deem proper.

DEMAND FOR JURY TRIAL

Plaintiffs, the Class, and the California Subclass hereby demand trial by jury of all issues triable by right.

Date: March 15, 2019

s/Gregory F. Coleman

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*Attorneys for the Plaintiffs and the proposed Class and
Subclass*

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that the foregoing pleading, Second Amended Class Action Complaint, was filed electronically with the Clerk of Court using the ECF system, which sent notification of such filing to all counsel of record on this 15th day of March, 2019.

s/Gregory F. Coleman

Gregory F. Coleman (*pro hac vice*)